98th Congress
1st Session

COMMITTEE PRINT

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98-26, PART 2

APPENDIX TO REPORT

ON

"THE TIMELINESS AND COMPLETENESS OF THE FEDERAL BUREAU OF INVESTIGATION'S DISCLOSURES TO THE UNITED STATES SENATE IN THE CONFIRMATION OF LABOR SECRETARY RAYMOND J. DONOVAN"

SWORN TESTIMONY AND EXHIBITS PRESENTED BEFORE THE COMMITTEE ON LABOR AND HUMAN RESOURCES DURING THE 97TH CONGRESS, 2D SESSION

PREPARED BY THE

COMMITTEE ON LABOR AND
HUMAN RESOURCES
UNITED STATES SENATE

MARCH 1983

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Committee on Labor and Human Resources

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United States Senate

Committee on Labor and Human Resources

Washington, D.C.

Wednesday, August 11, 1982
7:33 a.m.

Room 5302, Dirksen Senate Office Building

SWORN RECORD OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
J. Kevin O'Brien, Office of Congressional Affairs, FBI
John A. Mintz, General Counsel, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Tom Parry, designated staff member of Senator Hatch
Bob Marshall, designated staff member of Senator Denton
Joel Lisker, designated staff member of Senator Denton
Bruce Navarro, designated staff member of Senator Nickles
Tim Smith, designated staff member of Senator Stafford
Jim Wolfe, designated staff member of Senator Quayle
Emily Donovan, designated staff member of Senator Humphrey
Harold Gordon, designated staff member of Senator East
Michael Forscey, Bert Wides, and Walter Sheridan, designated staff members of Senator Kennedy

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff

WHEREUPON,

FRANCIS M. MULLEN, JR.

was called as a witness and, having been duly sworn by Senator Hatch, was examined and testified as follows:

BY SENATOR HATCH:

Q Would you state your name?

A Francis M. Mullen, Junior.

Q By whom are you employed?

A Federal Bureau of Investigation as Executive Assistant Director, currently Acting Administrator, Drug Enforcement Administration.

Q How long have you been employed by the FBI?

A Twenty years.

(Off the record)

Q What positions have you held with the FBI since 1979?

A Since 1979, Assistant Director--

Q And if we can get the period of time, too.

A Assistant Director, Criminal Investigative Division, FBI; Executive Assistant Director, all investigations, intelligence and criminal; and then Acting Administrator, Drug Enforcement Administration.

Q So, you were Assistant Director of Investigations for what period of time?

A Senator, I am not certain of the exact time I was Assistant Director. I would have to think for a moment. The promotions came rapidly after I got here to Washington. I arrived back here in October of 1977 and was Deputy Assistant Director for Organized Crime, White Collar Crime and about a year later in mid-1978 became Assistant Director and perhaps a year after that Executive Assistant Director.

But I would like to get those dates--

Q That is okay. We will be happy to have you correct the record.

Have you seen a copy of this Committee's resolution?

A I have.

Q Okay. Then we will mark a copy of the resolution and put it in the record, without objection, as Exhibit 1.

(Exhibit 1 was marked for identification.)

Q You have seen a copy of the Committee's rules as well, have you not?

A I have.

Q We will mark a copy of that as Committee Exhibit No. 2.

(Exhibit 2 was marked for identification.)

Q You have told the members of the Committee that the original authority for investigations of cabinet officers is President Eisenhower's Executive Order 10450. Is that right?

A No, I am not certain that that is the original

EXHIBIT NO. 1

[COMMITTEE PRINT]

97TH CONGRESS
2D SESSION

RESOLUTION

of the Committee on Labor and Human Resources

To authorize a committee investigation and depositions therein.

JULY 22, 1982

Mr. HATCH and Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following resolution, which was voted with approval by the committee on the twenty-second day of July 1982

RESOLUTION

To authorize a committee investigation and depositions therein.

Whereas the committee did conduct hearings on January 12, 1981, and January 27, 1981, on the Presidential nomination of Raymond J. Donovan as Secretary of Labor, and, in connection with said hearings, did rely on the Federal Bureau of Investigation to give evidence including testimony to this committee;

Whereas the Federal Bureau of Investigation did represent to this committee that the background investigation of Secretary Donovan that they conducted had been thorough and complete and had surfaced no information which would reflect unfavorably upon Secretary Donovan in any manner;

Whereas this committee has reason to believe that the information provided to this committee was incomplete and not provided in a timely manner;

Whereas this committee feels an obligation to determine whether the confirmation process worked effectively and in the public interest;

Whereas this committee must now determine whether to modify its own procedures provided in committee rule 18 for confirming Presidential nominees;

Whereas, for the expeditious conduct of this investigation, it is necessary that special counsel to this committee and other committee staff members conduct depositions of witnesses and obtain affidavits under oath;

Whereas, under Senate rule XXVI and section 1364(a) of title 28, United States Code, a committee may authorize the issuance of subpoenas and the taking of depositions, and under section 2903(c)(2) of title 5, United States Code, an oath authorized under the laws of the United States may be administered by an individual authorized by local law to administer oaths: Now, therefore, be it

Resolved, That the committee authorizes an investigation to resolve any and all questions concerning whether the committee received full, complete, and timely disclosure of all information in the confirmation of Secretary Donovan and whether this committee should modify its own procedures for recommending confirmation of Presidential nominees.

SEC. 2. (a) The chairman and ranking minority member, jointly, shall be authorized to notice depositions anywhere in the continental United States and to specify the time and place for said depositions. Depositions shall be in private and may be conducted with or without the presence of members after the deposition commences provided both a majority staff member and minority staff member are present. No deposition shall commence without a member of the committee in attendance; the notice of deposition shall so state. Special counsel to this committee and staff designated in writing by members of this committee may question the deponents, who shall be sworn by persons authorized under local law to administer oaths.

(b) Objections by any deponent as to the form of questions shall be noted in the record of the deposition. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the special counsel or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the chairman of the committee or the ranking minority member. If the chairman or ranking minority member overrules the objection, he may refer the matter to the committee or he may order and direct the witness to answer the question, but the committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been so ordered and directed to answer. The depositions shall be transcribed. A transcript of the deponent's testimony shall be provided to the deponent only to correct errors in transcription and to sign the transcript as corrected (if the deponent notes any corrections) but not to revise the testimony given. The deponent shall return the transcript to the committee for filing, no later than two days after the deponent is provided a copy of the transcript. Each deposition transcript shall be filed by the special counsel or staff with the clerk of the committee or the clerk's designee. The committee may place such deposition transcripts in the record of its public or closed hearings or base findings in reports on them or may retain them on file.

(c) The committee may initiate procedures leading to criminal or civil enforcement proceedings in the event a subpoenaed witness fails to appear at a deposition.

Sec. 3. The staff may obtain affidavits sworn to before a person authorized under local law to administer oaths. Each affidavit shall be filed by the special counsel or staff with the clerk of the committee or the clerk's designee. The committee may place such affidavits in the record of its closed or public hearings or base findings in reports on them or may retain them on file.

Sec. 4. The chairman, or a member designated by him, is authorized both to authorize and to issue subpoenas for witnesses and documents for this investigation under the procedure provided in committee rule 17(c) and the subpoenas may be returned either at depositions or at hearings. A complete and current log of, and set of copies of, all subpoenas, deposition notices, deposition transcripts, and affidavits shall be maintained by the clerk of the committee, or the clerk's designee, for inspection by any member of the committee or any assistant to a member of the committee designated by such member in writing.

SEC. 5. Meetings and hearings of this investigation may be called by the chairman or by a member designated by him. The quorum shall be one member for hearing sworn testimony.

SEC. 6. The committee may poll any business concerning this investigation under committee rule 6.

SEC. 7. No release to the public of deposition transcripts or affidavits or their contents, except through hearings or reports, is authorized.

SEC. 8. A copy of this resolution, and of the committee's rules, shall be furnished with each subpoena and to each witness at a deposition or hearing.

authority. In our prior discussion regarding a memorandum from President Eisenhower, I think it dealt with submitting summaries rather than full reports. I do not recall that to be the original authority. But I accept that it is, if that is what--

Q And that is what you indicated to me that you felt you were acting under at the time.

As I recall, your testimony was a way of introduction. By way of introduction, Executive Order 10450 requires that individuals being employed by the Executive Branch of the Government be afforded an investigation to establish their reliability, trustworthiness, good conduct and character, and loyalty to the United States. This forms the basis for most background investigations performed by the Federal Government. So, basically, that is true, is that correct?

A Yes, that was, Senator, my original testimony.

Q Okay. This was part of the FBI oversight on hearings before the Subcommittee on Civil and Constitutional Rights on March 17, 1980. Let's mark--

A Excuse me, Senator. I am not familiar with the document we are referring to.

Q Let's mark this document FBI Oversight Hearings before the Subcommittee on Civil and Constitutional Rights as Committee Exhibit No. 4. And then let's put a copy of the Executive Order 10450 into the record as Committee Exhibit

#3

Mullen 7/11/82

EXHIBIT NO. 3

December 15, 1980

FEDERAL GOVERNMENT

MEMORANDUM TO MR. MULLEN

RE: TRANSITION

Mr. Edwin Meese called during my absence at 10:15 a.m. 12/12/80, and said he would return the call upon my return. He was tied up with President-elect Reagan and asked Mr. Pen James to return the call. Mr. James asked whether we had reached any conclusion as a result of our inquiry into Pat Donovan. I checked with Mr. Revell and based on information which he supplied, as well as my recollection of conversation with Mr. Mullen while I was in New York on December 10th, that we had reviewed all our indices and had checked with all field offices and nothing negative had been disclosed. I advised that a company, Chivone(PH), in which he apparently had a very substantial interest, had appeared a number of times in reports in our HDFEX case, but that none of these suggested any criminality or organized crime associations.

I further advised that it did not appear necessary, in our view, to conduct a full field investigation based on the results of the name check. Mr. James said that he might need our assistance in the course of the confirmation proceedings and I, of course, stated that we would do whatever we could to help.

I advised that the report had been sent to Miss Jane Danower (PH), Mr. Fielding's secretary. Mr. Fielding was present with Mr. James at the time of our conversation, and was not aware that the report had been delivered.

William H. Webster
Director

1 - Mr. Colwell
1 - Mr. Revell
1 - Mr. Monroe

WHW:mfd

Exec AD Inv. ___
Exec AD Adm. ___
Exec AD LES ___
Asst. Dir.:
Adm. Servs. ___
Crim. Inv. ___
Ident. ___
Intell. ___
Laboratory ___
Legal Coun. ___
Plan & Insp. ___
Rec. Mgnt. ___
Tech. Servs. ___
Training ___
Public Affs. Off. ___
Telephone Rm. ___
Director's Sec'y ___

MAIL ROOM ☐

X-11

Monroe
Schulte

17 DEC [illegible] 1980

MEMORANDUM TO MR. MULLEN
RE: TRANSITION

ADDENDUM:

Mr. Meese called at 4:40 p.m., 12/12/80, and wanted to be certain that there were no on-going investigations involving Donovan. I confirmed to him, based on what I had been previously advised, that this was the case. We will certainly be asked for a full field following the nomination, but I told him that I knew of nothing to hold up the nomination at this time.

No. 5.

(Exhibits No. 4 and 5 were marked for identification.)

BY SENATOR HATCH:

Q Let me direct your attention to a copy of that Executive Order. Does not the Executive Order provide that-- let me read from it: "All persons privileged to be employed in the departments and agencies of the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States."

To the best of your knowledge, is not that basically what it says?

A I have to accept your reading of it, Senator, and I will, but I have not seen the document. I have no independent knowledge at this time.

Q Is it correct to say that the areas of concern in an applicant investigation are basically character, reputation, associates, and loyalty?

A That is correct.

Q While you were Assistant Director of the Criminal Investigative Division, you testified that character, reputation, associates, and loyalty were the areas of concern in an applicant investigation. Is that correct?

A Basically, that is correct.

Q You also testified in the same hearing that you,

EXHIBIT NO. 4

FBI OVERSIGHT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
CIVIL AND CONSTITUTIONAL RIGHTS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST AND SECOND SESSION

ON

FBI OVERSIGHT

MARCH 8, 15, 21, 27, 1979, MARCH 4, 10, AND 17, 1980

Serial No. 46

FBI OVERSIGHT

MONDAY, MARCH 17, 1980

House of Representatives,
Subcommittee on Civil and Constitutional Rights
of the Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2226, Longworth House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Seiberling, Drinan, Volkmer, and Sensenbrenner.

Also present: Thomas P. Breen, counsel; and Thomas M. Boyd, associate counsel.

Mr. Edwards. The subcommittee will come to order.

Today we are going to continue our work in advance of the full committee's consideration of the authorization request of the Department of Justice. The FBI conducts background investigations for certain Department of Justice employees, Cabinet officers, officials, candidates for Federal judgeships, and other Government employees. This work is very important and must be done efficiently, thoroughly, and accurately.

We are pleased to have with us today representatives of the Federal Bureau of Investigation to describe their program and the policies associated with the necessary commitment of resources. Our chief witness today is Francis M. Mullen, Jr., who is the Assistant Director of the Criminal Investigation Division under which this activity is administered.

We welcome you, Mr. Mullen, and ask that you please introduce your colleagues.

TESTIMONY OF FRANCIS M. MULLEN, JR., ASSISTANT DIRECTOR, CRIMINAL INVESTIGATION DIVISION, FEDERAL BUREAU OF INVESTIGATION, ACCOMPANIED BY JOHN C. LAWN, SECTION CHIEF, CIVIL RIGHTS AND SPECIAL INQUIRY SECTION; JOSEPH D. DOMZALSKI, ASSISTANT SECTION CHIEF, CIVIL RIGHTS AND SPECIAL INQUIRY SECTION; AND L. C. GROOVER, INSPECTOR, DEPUTY ASSISTANT DIRECTOR, FINANCIAL MANAGEMENT BRANCH

Mr. Mullen. Thank you, Mr. Chairman. With me today is John C. Lawn, who is Chief of our Civil Rights and Special Inquiry Section; Mr. Clyde Groover representing our Financial Personnel Division, who can discuss any cost related to applicant investigation; and Mr. Joseph Domzalski, who is Assistant Section Chief and also head of our Departmental Applicant Unit at FBI headquarters.

Mr. Edwards. Please proceed.

Mr. Mullen. It is a pleasure to appear before you again today to discuss the FBI's applicant investigations.

By way of introduction, Executive Order 10450 requires that individuals being employed by the executive branch of the Government be afforded an investigation to establish their reliability, trustworthiness, good conduct, and character, and loyalty to the United States. This forms the basis for most background investigations performed by the Federal Government.

Investigations of nominees for the Federal judiciary and top-level positions in the Department of Justice, have been performed by the FBI since at least the late 1930's and are initiated upon written request from the Department of Justice. Title 28 of the Code of Federal Regulations authorizes the FBI to conduct personnel investigations requisite to the work of the Department of Justice and whenever required by statute or otherwise—title 28 CFR, part O, subpart P, section 0.85(c).

FBI background investigations of prospective nominees for higher positions in the Government, other than in the judiciary and Department of Justice, essentially began with the election to the Presidency of Dwight D. Eisenhower in November 1952. President-elect Eisenhower requested that the FBI conduct such investigations of not only his Cabinet officers, but also of many subcabinet officials, and high-ranking officials of agencies not within the Cabinet.

The FBI has been called upon to perform this service for each succeeding administration. As a general rule, requests are made for a background investigation of all persons who are prospective nominees for employment in positions which require Senate confirmation. The FBI conducts all of these investigations, except for nominees who are being considered as U.S. Ambassadors. We have conducted approximately 1,000 Presidential appointment investigations for the administration of President Carter from November 1976 through February 21, 1980.

Prior to the election of President Carter, no formal memorandum of understanding existed concerning the various details attendant to such investigations. Such a memorandum of understanding was executed, however, between then Attorney General Edward H. Levi and President-elect Carter in November 1976. This memorandum of understanding, coupled with Executive Order 10450, and FBI internal regulations concerning applicant-type investigations in general, govern FBI procedures in the conduct of these investigations, and the dissemination of results.

The memorandum of understanding contains a provision that the individual will consent in writing to the investigation by the FBI and that information developed will be retained consistent with the FBI records retention plan.

The purpose of our investigations is to determine the nominee's suitability for employment and/or his or her trustworthiness for clearance to classified information. To this end, we conduct inquiries concerning the nominee's character, associates, loyalty, and reputation in the community. The background investigations, for nominees to the Cabinet and top-level positions of the Department of Justice, are designed to thoroughly and comprehensively cover the individual's adult life since graduation from high school.

Inquiries are made at all institutions of higher education and employment. Receipt of degrees is verified, overall grade-point average and class standing are determined, if available, professors are contacted, supervisors and coworkers are interviewed. Neighborhood inquiries are made at places of residence during the last 5 years. Credit and arrest checks regarding the nominee are conducted at all places of residence, education, and employment. Arrest checks are also conducted on close relatives at their place of residence.

For judicial nominees a broader canvass of the community is made to include representatives of the legal profession; judges, and law enforcement officials at Federal, State, and local levels; and representatives of minority, ethnic, labor, and religious groups. Newspaper morgues, where available, are also searched for any possible controversial material concerning judicial candidates. In addition to character, reputation, associates, and loyalty, inquiries concerning judicial nominees cover such areas as commitment to equal justice under law, temperament, and freedom from bias against any class of citizens or groups, possession of outstanding legal ability and competence, and ability to manage complicated pretrial and trial proceedings—Executive Order 12097 issued on November 8, 1978, set forth standards and guidelines for the merit selection of U.S. district judges.

Traditionally, the FBI does not initiate investigation into financial standing, or sources of income. That responsibility has been assumed by the White House staff and Department of Justice. If information is received, however during the course of an investigation which indicates possible irregularities involving the nominee's income or assets, this information is furnished to the White House or Department of Justice.

Investigation to resolve such an allegation is occasionally conducted, but in no known case—except during the investigations of the appointed Vice Presidents Ford and Rockefeller—has the FBI conducted a detailed audit of a nominee's financial affairs.,

Similarly, if information is developed indicating possible criminal conduct, that information will be reported to the requesting authority. If the allegation is specific enough to warrant initiation of a criminal investigation, a prosecutive opinion will be obtained and necessary investigation implemented.

This concludes our prepared statement and I am available to answer any questions you may have concerning these investigations.

Mr. EDWARDS. Thank you Mr. Mullen. The first person to be recognized is the gentleman from Ohio, Mr. Seiberling.

Mr. SEIBERLING. Thank you.

Mr. Mullen, I must say that I feel that the FBI in these background checks has done a reasonably outstanding job, from everything that I know. I have been unhappy in the past about some of the gossipy types of material that is retained for long periods of time in FBI files, without any seeming evaluation, and I know my colleague on the left, Father Drinan, has brought that subject up in the past, and I certainly strongly support further efforts to make sure that that kind of material is not perpetuated.

I am on the House Interior Committee, and we have general oversight over the Department of Interior, and I have been quite disturbed to read recently in Jack Anderson's column, statements implying that the FBI check on Gov. Cecil Andrus, at the time he was nominated to be Secretary of Interior, was not thorough, or else somebody removed material, I would like to ask you a couple of questions about that.

First, was information in the FBI's file regarding Gov. Cecil Andrus scissored out by President Carter, as alleged by Mr. Anderson?

Mr. **Mullen**. No, Congressman: it was not, and to elaborate, I have read the Anderson columns, and I personally took the time to review the investigative file on Mr. Andrus from beginning to end, and the columns are totally inaccurate. No such information was ever obtained, and none was removed before sending the report to the White House.

Mr. **Seiberling**. Let me make sure I understand this. Let me put the question a little differently, then. Was there anything in the file regarding Cecil Andrus that would substantiate the Jack Anderson allegation?

Mr. **Mullen**. No, sir.

Mr. **Seiberling**. Thank you.

It is just utterly deplorable that this kind of material would be put in the press, but I am delighted to hear the FBI's refutation of this, and I would hope that the news media would make an appropriate retraction or apology. I personally, in 3½ years of oversight over the Department of Interior, since Mr. Andrus became Secretary of Interior, have found absolutely nothing to indicate that he was anything but one of the highest type public servants that I know, and I am delighted that the FBI's check substantiates that as of the time that his nomination was submitted.

Mr. **Mullen**. I would elaborate just a little further if I may, Congressman. Over 70 individuals were contacted during the course of that investigation, and all I believe, save one individual who had a a complaint on his attitude in Indian matters, were very complimentary and highly recommended him for the position.

Mr. **Seiberling**. I did a personal check on Mr. Andrus when his nomination was submitted and before he was confirmed, because I was concerned about the kind of background that he would bring with him to the Department of Interior, and I personally found only the highest compliments, from all the people that had any knowledge of him that I was able to contact, and I am delighted to find that the FBI's check was on all fours, and I appreciate that answer.

I would like to ask one other question. How is my time, Mr. Chairman?

Mr. **Edwards**. Go ahead.

Mr. **Seiberling**. Some years ago, under the Freedom of Information Act, I asked for information from my own FBI file. Having been an officer in the U.S. Army in World War II, and later had an Atomic Energy Commission clearance and naval clearance, I thought it might be interesting, and I must say that there was a lot of stuff in that file that was inaccurate, some material that was just plain incorrect, and some of a gossipy character which had nothing to do with my qualifications or my character, but was just reporting material that really was not correct, and was irrelevant. I just wondered how long you keep that sort of stuff hanging around?

Mr. MULLEN. The applicant files are retained for a period of 30 years before they are destroyed.

Mr. SEIBERLING. Don't you try to evaluate the credibility of material you put in the file?

Mr. MULLEN. Yes; we do attempt to verify the information. I don't know the exact nature of the information to which you are referring, but if there is information that is derogatory——

Mr. SEIBERLING. It was general conversations that I had with FBI agents and various other people with philosophical matters and political philosophy and stuff like that, all of it being in the file and very little of it having anything to do with whether I was a security risk.

Mr. MULLEN. This was an applicant file we are talking about?

Mr. SEIBERLING. Yes; I think it was developed at the time when I was an attorney for Goodyear, seeking an AEC or naval clearance, so I could deal with secret and classified matters.

Mr. MULLEN. Congressman Seiberling, if I could see the material I could discuss it.

Mr. SEIBERLING. It wasn't of any great moment. I just thought it was ridiculous to have all that junk in the file.

Mr. MULLEN. I would agree. During the applicant investigations we try to avoid obtaining and retaining that type of purely gossipy information, gossipy. We try to investigate in such a manner that the information pertains to the individual's qualifications and/or suitability for the position being sought. That is our standard. But perhaps in the past you could find files, especially in some relations with Congressmen or one like that where that type of material may have been placed in the file.

Mr. SEIBERLING. It was long before I ever had any intention of being a Congressman. It just seemed to me that they regurgitated whatever they turned up without regard to whether it had any significance or meaning or relevance, and I hope that they have improved their sifting of this material.

Mr. MULLEN. I am certain that we have. The applicant investigations that I have reviewed, that have passed over my desk, appear to me to be very detailed pertaining to the issue at hand, rather than containing gossip and other such material.

Mr. SEIBERLING. Thank you. Thank you, Mr. Chairman.

Mr. EDWARDS. Mr. Drinan?

Mr. DRINAN. Thank you, Mr. Chairman, and thank you, Mr. Mullen and your associates. When I was dean at Boston College Law School I taught 1,300 lawyers, and as a result the FBI was investigating them on a regular basis for positions, so I have been talking to your agents for many, many years, and I was always jolted by one question that they felt obliged or were obliged to ask: Do you have any reason to doubt the loyalty of Mr. Jones?

When was that inserted into the law? Is that the 1952 Eisenhower Executive order?

Mr. MULLEN. April 1953, Executive Order 10450.

Mr. DRINAN. Has it ever been defined; what it meant?

Mr. MULLEN. It is defined as being loyal to the U.S. Government not loyalty to any particular individual, that not being a member of a group whose interests were opposed to the U.S. Government or its principles.

Mr. DRINAN. Would the Republic be ruined if we dropped that particular source of inquiry?

Mr. MULLEN. I don't know if it would be ruined, Congressman, but I think it is important to determine an individual's loyalty to the U.S. Government.

Mr. DRINAN. I always answered yes, and if the man was writing down things, as sometimes they were and I wanted my former students to get ahead in the world and I said, "Oh he is very patriotic." And he would write this down, now, during the war years this was rather delicate. What do we mean by loyalty? I sometimes wonder what is in the files of all those thousands of people that were investigated for important positions.

I recall some people who were applying for the position of assistant U.S. attorney. The FBI agent sometimes was very direct, and would say, "Well, has he ever participated in demonstrations against the war?" And that was what constituted violations of the normal loyalty. In any event, I think a lot of people are very uncomfortable with the question and that it doesn't really go in to character or reputation or educational background.

Mr. Chairman, I think that we ought to investigate what the meaning of loyalty is.

Mr. EDWARDS. Will you yield at that point?

Mr. DRINAN. Yes.

Mr. EDWARDS. I wonder if anybody ever answers no; that he is disloyal?

Mr. LAWN. May I answer that question? Not to my knowledge has anybody ever answered, "No, he is not loyal to the U.S. Government"? If I could get back, Congressman, Drinan, in 1974, Executive Order 11785 abolished the Attorney General's list of subversive organizations, so that is no longer a part of the investigations. But we know that on occasion, and this is where we refer to loyalty, certain groups and certain hostile foreign powers would attempt to place an applicant in Government service, and loyalty would include resolving if an individual was under such direction. We realize there are perhaps different degrees of loyalty. Perhaps with regard to patriotism there would be different interpretations, but in general I think we would mean loyalty to the U.S. Government.

Mr. DRINAN. The Republic got along pretty well until 1952 without that law, without making a personal request of the neighbors or the friends of former professors: "Is this man a loyal American citizen? Is he loyal to our institutions? I find it offensive, I think most people do, challenging the patriotism or the loyalty of another individual without any justification whatsoever, and the idea that the evidence that one puts forth is in the file forever. I would think that it is unreliable, and that it is irrelevant.

Mr. MULLEN. I think Congressman Edwards asked a very good question. As indicated by Mr. Lawn, who is our Section Chief of the Applicant Investigations Section, generally he would say no.

Mr. DRINAN. That is another reason why it is a bad question. That is not the way to find out. In any event, let me move on to another question.

Has anybody ever suggested that the FBI should in fact look into the financial standing and the sources of income? Is that duplication, when the White House or someone else does that? What is the origin and rationale of that division?

Mr. Mullen. I will let Mr. Domzalski answer that question.

Mr. Domzalski. If I can answer that, Congressman Drinan. The FBI has never been asked to look into that aspect of an individual's background. The financial examinations have always been done by the appointing authorities, either the Department of Justice or the White House. The only instances were, as Mr. Mullen referred to in the Rockefeller and Ford investigations, because of the unique position that they were to occupy. Since they were being appointed to the Vice Presidency of the United States, we were asked to do a complete financial audit, but essentially, it is not a task that has been given to the FBI. We have been asked to concentrate our investigation on character, reputation, associates, and loyalty, and not to cover his financial standing.

Mr. Drinan. Let's take a for instance. If the U.S. attorney is appointing someone to be an assistant U.S. attorney, and this is an actual case of a constituent I spoke to yesterday, and he is about to undergo this massive FBI search, the U.S. attorney apparently is going to check up on his tax returns and not the FBI. Why not consolidate it?

Mr. Domzalski. We furnish a request to the IRS to check these records for the Department. It is not an examination of the IRS returns itself. The IRS sends back generally a brief, one-paragraph report that the returns for 3 years have been examined and that there is no record of criminal or civil action or tax liens concerning them.

Again, we have been doing this as a request from the Department. We are in essence the middleman on it. We transmit the authorization. The individual has to sign a waiver before IRS will accept such a check, and we present that to IRS, and when their report is complete we transmit it to the Department of Justice.

At present, we are working on a procedure with the Department of Justice for them to deal directly with the Internal Revenue Service concerning those records and to eliminate the FBI from that function.

Mr. Drinan. One last question. This is an authorization hearing, and in the fever for economy I guess we are supposed to be looking for appropriate ways by which we could cut back. On pages 20 and 21 of the authorization statement, the FBI or Justice is saying that they apparently don't see any way by which there could be decreased funding in this program. My last question: Is there any appropriate way by which we could suggest economizing or consolidation, some way by which some rational cut could be exercised?

Mr. Groover. Congressmen, in the 1981 request, the FBI is assuming that it will continue to have the responsibility to conduct those other direct funded, the ones we are asking funds for, investigations for the Department, for the White House, and for the congressional committees. Absent a reduction in those requests, we have no alternative but to seek the money.

Mr. Drinan. What congressional committees bother you for an investigation?

Mr. Groover. We conduct investigations, and there is an entire list, if you would like to see it——

Mr. Drinan. Which are the major committees, Intelligence?

Mr. Groover. Appropriations, Select Committee on Assassinations, House Subcommittee on International Organizations, House Permanent Select Committee, Senate Armed Services Committee, Senate Committee on Foreign Relations.

Mr. **Edwards**. Without objection, that list will be made a part of the record.

Mr. **Drinan**. I think that is a good idea, Mr. Chairman.

Mr. **Edwards**. Will the gentleman yield for a question?

Is all that reimbursable?

Mr. **Domzalski**. Those are not reimbursable, Mr. Chairman.

Mr. **Edwards**. In other words, we are getting that work in Congress for nothing?

Mr. **Domzalski**. You are now. The FBI charter provides for reimbursements by congressional committees, however.

Mr. **Drinan**. I thank the gentleman. I yield back the balance of my time.

Mr. **Edwards**. Mr. Sensenbrenner?

Mr. **Sensenbrenner**. Yes. I am interested in knowing whether there have been any reductions in funding requests as the budget process goes from the bureaus and the Department of Justice to the OMB, from OMB to the President, and then ultimately on to Congress.

Mr. **Mullen**. Mr. Groover will answer that question. This is in the area of applicant investigations, Congressman?

Mr. **Sensenbrenner**. Yes.

Mr. **Groover**. There was a slight reduction at the department level, Mr. Sensenbrenner. We think, however, that we do have enough, at the current caseload, to handle them with the existing——

Mr. **Edwards**. Use the mike, please.

Mr. **Sensenbrenner**. If I may ask the question, still in your fiscal year 1981 budget there is sufficient appropriations in case there is a change in administration, which would consequently mean a tremendous increase in the caseload of background checks for persons who would be applying for positions in the new administration?

Mr. **Groover**. The 1981 request is essentially the same as the 1980 request. There is no increase in funding. In the initial request, it was taken into consideration. By the time it got through the process, there was an elimination of 59 positions which would have handled any increased workload.

Mr. **Sensenbrenner**. How many positions do you have in the total for applicant investigations?

Mr. **Groover**. We have for funded or nonreimbursable applicants, 475 full-time, permanent positions.

Mr. **Sensenbrenner**. And 59—was that out of the base or was that just a denial of an increase?

Mr. **Groover**. Denial of an increase.

Mr. **Sensenbrenner**. I would like to ask a couple of questions relative to the applicant investigation of the Secretary of the Treasury, which has become somewhat of a controversial issue over on the Senate side. I ask how it would be possible, after all of the allegations relative to potential violations of the Foreign Corrupt Practices Act were not uncovered during that applicant investigation.

Mr. **Mullen**. As indicated earlier, Congressman, we do not go into the financial status or means of finances during our investigation.

Mr. **Sensenbrenner**. The allegations are that the Textron Corp. bribed foreign government officials during Mr. Miller's tenure as chief executive officer. It does not involve Mr. Miller's personal finances. It involves whether he was knowledgeable about a violation of the law that apparently occurred during this period he was the chief executive officer of Textron.

Mr. **Mullen**. Right. You must keep in mind that these are still allegations, and during our investigation we again contacted over 70 individuals, including the chairmen of the board for 8 separate corporations, a U.S. Senator, and none indicated any difficulty in this area. I would hope that after interviewing or contacting 70 individuals and checking the many records that we did, we would have turned up such an allegation. We did not.

Mr. **Sensenbrenner**. It seems to me that if you spent your time talking to individuals in the Textron Corp., they certainly were not going to admit to you as law enforcement officials of the Federal Government that a Federal law was possibly violated. And how would people outside the Textron Corp. know that Textron Corp. funds were being used to bribe foreign officials?

Mr. **Mullen**. I don't know how they would know, but as I indicated, we talked to many, many individuals, and it is very difficult to have this type of activity occurring, in my opinion, and not have somebody know about it.

Mr. **Edwards**. Would the gentleman yield at that point?

Mr. **Sensenbrenner**. Yes; I yield to the chairman.

Mr. **Edwards**. Were there allegations in the newspapers before the appointment was made that Textron had been possibly guilty of this misconduct?

Mr. **Mullen**. No. Had there been allegations in the newspaper, Mr. Chairman, we would have included them and made them a part of our report.

Mr. **Edwards**. Was the company under investigation by any Federal agency?

Mr. **Mullen**. Not to our knowledge, Congressman, and I have to emphasize here we are not conducting a criminal-type investigation when we are conducting an applicant investigation. We are trying to determine suitability for office, and we go into these investigations assuming that the individual is a qualified nominee. We are not going out talking to criminal-type informants to see if there is any criminal activity in these investigations.

Mr. **Sensenbrenner**. Reclaiming my time, my reading of the newspaper accounts on the Textron matter indicates that there really was no doubt that the activity took place by the Textron Corp. The question that is decided relative to Secretary Miller is whether he knew about it.

Mr. **Mullen**. That is right.

Mr. **Sensenbrenner**. Now, since the applicant investigation of Secretary Miller took place in 1978, I am wondering if there was any investigation of potential misconduct on the part of the Textron Corp., by the Bureau that just did not get meshed in with the applicant investigation of Secretary Miller.

Mr. **Mullen**. No, Congressman, If there had been an ongoing investigation, it would have been included in our applicant investigation, and would have been so reported.

Mr. **Sensenbrenner**. I do think that it is important that potential nominees for high Government positions have as thorough a background check as is possible, so that the President will not be embarrassed by revelations in newspapers. I would just observe that I think in the case of the Textron relationship with Mr. Miller, the President was embarrassed by what appeared in the newspaper, and I would hope that the procedures would be tightened up sufficiently so that the President would have the knowledge of potential allegations of misconduct in his background report rather than picking up the newspaper somewhere and reading about it.

I yield back the balance of my time.

Mr. **Edwards**. Mr. Volkmer?

Mr. **Volkmer**. Thank you, Mr. Chairman. I will continue with what the gentleman from Wisconsin said and make an observation. You can tell me if I am right or wrong. Background checks that you made on behalf of White House personnel or Cabinet officers, that is done under Executive order, is it not?

Mr. **Mullen**. Yes, 10450.

Mr. **Volkmer**. That is also basically by agreement with the White House, the President, and the Attorney General's Office?

Mr. **Mullen**. That is correct.

Mr. **Volkmer**. How it should be done. They can change that very easily, couldn't they?

Mr. **Mullen**. They could.

Mr. **Volkmer**. In other words, if the President really wanted additional checks on people, he could do that without any of us worrying too much about it?

Mr. **Mullen**. They could request additional checks, yes.

Mr. **Volkmer**. That would be done?

Mr. **Mullen**. It would be done.

Mr. **Volkmer**. In other words, the way I look at it, as a person in Government, the separation of powers, to me that is up to the President whether he does it or not and whether he has any checks or not. I think that is where the responsibility lies. Then if he didn't, it would be up to the Senators to confirm. If they wanted something, they could request it and they could get additional too, could they not?

Mr. **Mullen**. That is correct. As you are probably aware, the FBI conducts the investigation, and even if we should find in investigation that the individual is not qualified for the position, that is not a decision for the FBI to make.

Mr. **Volkmer**. That is correct.

Mr. **Mullen**. The agency can still hire as they wish.

Mr. **Volkmer**. Thank you.

Now I have information here that you have reimbursable applicant investigative work. I see an estimate here of about $5 million. Is that right?

Mr. **Mullen**. Mr. Groover can answer that question.

Mr. **Volkmer**. That is reimbursable?

Mr. **Groover**. I think that is the estimate.

Mr. **Volkmer**. I agree it is an estimate, but where does most of that come from or where does that money come from? What agency, department, private or what? I have heard of a long list. You might just submit it for the record, but I would like to know.

Mr. **Groover**. There are just a few agencies. Most of it is from the Administrative Office of U.S. Courts.

Mr. Volkmer. Is that on the judiciary or what? Does anybody know?

Mr. Domzalski. If I could answer that, Mr. Congressman, the investigations we do for the Administrative Office of the Courts concern candidates for position of U.S. magistrate, bankruptcy judge, Federal circuit court and district court judge, executive, probation officer, pretrial services officer, and Federal public defender.

Mr. Volkmer. Those are reimbursable?

Mr. Domzalski. Yes.

Mr. Volkmer. Who else?

Mr. Groover. Department of Energy, Nuclear Regulatory Commission, and administrative appointees.

Mr. Volkmer. Is that reimbursable by statute or by agreement, do you know?

Mr. Groover. By agreement.

Mr. Volkmer. Can you tell me as to whether those background checks are for people that are involved in the NRC in policy decisions or are they just physicists or engineers? Can anybody tell me that?

Mr. Domzalski. Essentially, they are positions which the Department of Energy and Nuclear Regulatory Commission classify as important and sensitive. They are not just the top policymakers, but they are people who will have access to the most sensitive atomic energy data.

Mr. Volkmer. Information?

Mr. Domzalski. Yes.

Mr. Volkmer. So you wouldn't want that sent out willy-nilly to anybody and everybody?

Mr. Domzalski. Yes, sir.

Mr. Volkmer. I understand before I got here there may have been some discussion on the question of the loyalty oath, or loyalty to the U.S. Government. Have you had anybody that has ever had to take that and tell you that they thought it was an affront to them, that they should never have to do things like that? Do you know of anybody that has ever done that?

Mr. Mullen. No, Congressman, I do not.

Mr. Volkmer. It hasn't created any great hardship on anybody, has it, to do that?

Mr. Mullen. It has not.

Mr. Volkmer. I yield back the balance of my time.

Mr. Edwards. Thank you.

Mr. Mullen, you spend about $18 million a year in this program. Do your clients have any complaints about the work that you provide in these investigations?

Mr. Mullen. No, Mr. Chairman, we have had no complaint.

Mr. Edwards. Do the agents do other work, other than applicant work?

Mr. Mullen. Yes; an agent could be assigned to an applicant squad. Normally, we try to structure our programs fieldwide as thay are structured at headquarters. For example, as I indicated at the outset, Mr. Lawn is in charge of the Civil Rights and Special Inquiry Section. We may have agents on a squad working on civil rights matters also, and possibly some other violations, in additional to applicant investigations, depending on the size of the field office.

Mr. Edwards. Do some of the agents get stuck in this work?

Mr. Mullen. No; in many offices we do put our younger agents, our newer agents, on this type of work, as a means of learning to investigate, learning to interview, and learning their way around the city It is not the most preferable work for an FBI agent. Most would rather be out investigating criminal matters. At headquarters in Mr. Lawn's section, the applicant—we do need some expert people in this area such as Mr. Domzalski, but after approximately 1 year we normally transfer an agent to other responsibilities.

Mr. Edwards. In the FBI school for new agents, is a certain amount of time dedicated to training FBI agents in applicant investigations?

Mr. Mullen. Yes; there is a block of instruction dealing with applicant investigations.

Mr. Edwards. A specific course?

Mr. Mullen. Not a course per se. I don't know the exact amount of time dedicated. I can determine that for you, Congressman.

Mr. Edwards. How many hours, we would like to know.

Mr. Mullen. Yes; it is definitely a part of the instruction, but I just don't know the amount of time dedicated.

Mr. Edwards. Are applicants for employment with the FBI ever submitted to lie detector tests?

Mr. Mullen. No.

Mr. Edwards. When the agents are out investigating, making these background investigations either for the Department of Justice or for another agency, the agents will say to the person being interviewed that so-and-so is under consideration for a Federal job, or will they be specific?

Mr. Mullen. They would be specific as to the nature of the position. Jack, do you want to elaborate on that?

Mr. Lawn. Yes, sir.

Mr. Chairman, in reference, for example, to inquiries done for the White House, very often the FBI is not aware of the particular position for which the individual is being screened. Therefore, we would not be in a position to tell the persons with whom we are in contact the specific position for which that the individual is being considered.

Mr. Edwards. A person came to my office the other day, and said that he or she 25 years ago or 30 years ago had been a radical or whatever people described activitists as in those days, and that the FBI within the last year or so had gone, an agent had gone to her place of employment, which was a university, and said that she was under consideration for a Federal appointment, and would like to know information about this particular person, and so forth. She said it damaged her reputation rather severely because there was no appointment, as it turned out, and when people asked her about it, she just shrugged and she said, "Well, then, why was the FBI making these inquiries?"

My question to you is, do some of these agents in general investigations that are not applicants use this pretext that this person is under consideration for a Federal appointment, will you tell me about this person, when actually it is not true?

Mr. Mullen. No; we do not do that, Mr. Chairman, and if you would make the specifics of this case available to me I will check further. Would there be such a situation?

Mr. **Lawn**. Mr. Chairman, I believe I am aware of that particular situation. In that particular case I believe that was done. However, it was done in error, and an administrative inquiry was conducted by the FBI, and that particular agent received some administrative censure for that activity.

Mr. **Edwards**. I am pleased to hear that, because it really isn't appropriate.

Mr. **Mullen**. And it is not policy.

Mr. **Edwards**. My last question for this round is, do you find any conflict in organizations, in an organization that is primarily a police organization, and the agents are generally doing that kind of work and like to do that kind of work, criminal investigations? Do you have to put on another hat, two or three times a month or whatever, and become personnel investigators? Is it appropriate? Do you see any conflict there?

Mr. **Mullen**. No; I see no conflict, Mr. Chairman. In fact, a trained investigator conducting an applicant investigation can usually remain alert or spot a possible difficult area. We have had no difficulty whatsoever with this, and as indicated, it is of value to us as a means of training our newer and younger agents. It has not been a problem for us.

I know you are probably recalling your days as an FBI agent. We do not put agents on applicant work as a means of punishment or anything like that. We recognize that they are very important investigations, and we put put some of our better agents into this type of work.

Mr. **Edwards**. I will say this, that Chairman Rodino assigned me in the confirmation proceedings of Mr. Rockefeller a number of years ago to examine the report, and the investigative work that was done by the agents in connection with the Goldberg book was really remarkable, and I complimented the Bureau at that time on that work and I will again. It was a most comprehensive report, and the skill with which the agents operated and traced that book appropriately was very good.

Mr. **Mullen**. Thank you.

Mr. **Edwards**. Mr. Sensenbrenner?

Mr. **Sensenbrenner**. I have no further questions.

Mr. **Edwards**. Mr. Volkmer?

Mr. **Volkmer**. I have no further questions.

Mr. **Edwards**. Mr. Drinan?

Mr. **Drinan**. In your testimony on page 3 you indicated that individuals signed consents prior to the conducting of a background investigation. Does this apply to all background investigations, or is there something specific about the Presidential-type investigations?

Mr. **Lawn**. No, sir. Whenever a background investigation is conducted, the individual will sign a waiver. If the investigation is being done in-house, that if, if it be an employee for employment in an FBI, the waiver is signed. If it were to be done for the Department of Justice, the Department of Justice has the individual sign the waiver, and the same is true for the White House appointees.

Mr. **Drinan**. How about for the NRC people and the rest of those reimbursable; do they sign a same or similar form?

Mr. **Lawn**. Yes, sir, a waiver is signed by all.

Mr. Drinan. What is it a waiver of, Privacy Act considerations?

Mr. Lawn. Yes, sir. We have copies of each of the particular waivers of which we speak.

Mr. Drinan. Could we have them and make them a part of the record, then?

Mr. Lawn. Yes, sir.

[Insert provided to committee staff member at hearing.]

Mr. Breen. In these background investigations, is there a standard list of questions in the manuals or other procedures that you have for asking those that are interviewed with regard to applicants?

Mr. Mullen. There is a standard list of questions, but standard areas, the character, reputations, associates, and loyalty of an individual, but no standard preprinted list of questions. It will vary from position to position. The questions probably would be more directed to the nature of the position being sought.

Mr. Breen. I suppose it is likely that a special agent's first job ever for the FBI in the field might be conducting an interview for a background investigation?

Mr. Mullen. That is very likely, but as Mr. Lawn is pointing out, and as I was going to state, if it is a very critical position, we would perhaps use an agent with some experience.

Mr. Breen. Let's say it is for a clerical personnel. The questions are still basically the same. Doesn't that person have a little card written down to make sure he does not ignore some important question?

Mr. Mullen. No; we are firmly convinced that a trained investigator will ask the proper questions.

Mr. Breen. When you are doing background investigations, I know you don't go into the tax returns or that kind of material, but do you do credit checks of any kind; that is, do you check with Dun & Bradstreet? Is that a normal part of the procedure of a background investigation?

Mr. Mullen. Credit checks are. That is a part of the waiver. The waiver form contains a release of credit records. We would go to Dun & Bradstreet if the individual was associated with a business that may require a Dun & Bradstreet check. We don't do it in every single case.

Mr. Breen. What if the person had been in business in the past but was no longer in the business, maybe doing something else; would you check Dun & Bradstreet or similar credit-type organizations to determine the past financial credibility or whatever?

Mr. Mullen. Joe, would you answer that one?

Mr. Domzalski. No; I don't think normally we would necessarily go to Dun & Bradstreet on every candidate. If a situation came up where we thought there was information there that could help us in the investigation, then we might initiate a check. But as a routine check, no, we don't have Dun & Bradstreet done on everything. Credit records, yes, but not Dun & Bradstreet.

Mr. Breen. If some source, however, had said that there was some financial difficulty in the past, then you might check that out as a normal lead?

Mr. Domzalski. We might try and check it out to see what the general reputation was.

Mr. Breen. Who grants the security clearances in the FBI? Does the FBI do that or the Department of Justice?

Mr. **Mullen**. You mean for FBI personnel?

Mr. **Breen**. Yes.

Mr. **Mullen**. We do have an FBI classification officer, who in giving the top secret and secret clearances handles the in-house FBI clearances, but we do not give a clearance to any other agency.

Mr. **Breen**. So the director in fact is the issuer of the security clearance?

Mr, **Mullen**. That is correct, or his designated official within the FBI.

Mr. **Breen**. In the rest of the department that is issued by Department of Justice, by the Attorney General?

Mr **Mullen**. A similar official within the Department of Justice.

Mr. **Breen**. Do your records show whether or not a person is granted a clearance in either the Department of Justice or any other agency?

Mr. **Mullen**. I will let Mr. Domzalski answer.

Mr. **Domalski**. No; we don't get any feedback from the department or the White House or anyone as to whether they actually bring the person on board or grant him the clearance as a result of our investigation.

Mr. **Mullen**. In the White House cases you would probably know if it were a Cabinet secretary, I assume?

Mr. **Domzalski**. Yes; from public documents we would be able to tell whether they were appointed or not.

Mr. **Breen**. Other agencies do background investigations, OPM and military and what have you. I know there has been some problem for the past years about one agency not accepting the background investigative work done by another agency. Is that still the case, where one agency in effect ignores the work of the other agency, and starts an investigation over again?

Mr. **Domzalski**. The way security procedures are set up in the Government right now, each agency is the judge of whether it will grant a security clearance to someone. If a prior investigation has been done, and an agency does not feel it is adequate, then it won't use that as a basis for its judgment, but it is an individual agency decision whether to accept it or not.

Mr. **Breen**. Do the agencies or the people that are responsible in those various agencies talk to each other about these problems, to either standardize or improve procedures so that there is reduction in the duplication here?

Mr. **Domzalski**. There is an interagency committee established right now that is looking into those very problems, trying to set up standards for background investigations, for determining cost factors in these investigations, for establishing the criteria for granting security clearances and the various levels at which they would be established, but at the moment this is primarily in a working group stage, and it has not come up with any policy determinations yet.

Mr. **Breen**. Who establishes that group?

Mr. **Domzalski**. It was initiated by the Department of Defense and OPM joined with them. It began as a result of a GAO report last year, which was critical of the divergence of efforts in this area.

Mr. **Breen**. You are part of that group?

Mr. **Domzalski**. Yes.

Mr. **Breen**. Or the FBI is?

Mr. **Domzalski**. Yes, we are on various committees.

Mr. **Breen**. Is it making any progress?

Mr. **Domzalski**. At the moment we are moving along with it. We are having a lot of discussions as to what is necessary and what is not necessary, and how large a scope of investigation is really essential. We are having some frank exchanges on that, but as I say, we haven't really come out yet and said this is what an investigation should be.

Mr. **Breen**. Is the mandate of this group to come up with some recommendation?

Mr. **Domzalski**. The mandate is to come up with a recommendation as to what the standard investigation should be for the Federal Government, and then to circulate that to the agencies and see if they agree with that or whether they have any opinions on it.

Mr. **Breen**. You said frank discussions. Doesn't that normally mean people are fighting with each other?

Mr. **Domzalski**. There are a lot of differences as to how thorough an investigation is necessary, and what all needs to be covered.

Mr. **Breen**. Some of the work you do for the White House appears to be for nonpolicy-type people; that is, people that are associated with the operation of the White House, its care, cleaning, cooking, and what have you. Is that appropriate work for the FBI to be doing, do you think, or could it be done by somebody else? Mr. Mullen?

Mr. **Mullen**. I would like to answer that. When you are considering the safety and the well-being of the President, I think it is appropriate for the FBI to be doing that work.

Mr. **Breen**. Doesn't the Secret Service have even more sensitive responsibility in that area than you do, at least personally? Do they have the capability to do some of the work that would be necessary just for the White House?

Mr. **Mullen**. They certainly would. They could perhaps handle it as adequately as we handle it.

Mr. **Breen**. It seems as Presidential campaigns go along, people drop out, there are more and more agents freed up. I really don't know what they do, but it seems like there are people that are available at least theoretically that could do some of this work that is directly related to the White House?

Mr. **Mullen**. That is correct, although we do have access to the records, the Identification Division records and everything right at the FBI, but there is no question that your point is well taken.

Mr. **Breen**. Thank you, Mr. Chairman.

Mr. **Edwards**. Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman.

Mr. Mullen, I would like to tie up some loose ends that were left by Mr. Sensenbrenner's first question with regard to Secretary Miller. Was the FBI aware of the bribery efforts on the part of Textron at the time Secretary Miller was being confirmed?

Mr. **Mullen**. No, I am certain, and I say this without having examined the record, but based on my knowledge of how the Criminal Investigative Division functions. If we were aware of that information, it would have been reported as part of our investigative report, and if the allegations had some basis in fact, we would have conducted criminal-type investigations. To my knowledge we were not conducting such an investigation at that time.

Mr. Boyd. You have not yet conducted an investigation with regard to Secretary Miller's possible knowledge of the Textron bribery efforts?

Mr. Mullen. That is correct.

Mr. Boyd. Even though those bribery efforts are now public knowledge?

Mr. Mullen. We have not been given any information indicating there was some basis to open a criminal investigation. Let's keep in mind they are allegations.

Mr. Boyd. I am confused then. Are you saying that so far as you know there were no bribery efforts on the part of Textron?

Mr. Mullen. My only knowledge is what has been in the newspaper, and they are allegations, so I can't say whether there were or were not. What I am saying, is that we have not had adequate information furnished to us which would warrant our going forward with a criminal investigation.

Mr. Boyd. You mean—or let me ask you the question in a different way. Recently there was a letter forwarded to the Department of Justice, specifically to the Attorney General, by a number of Republican Members of the Congress requesting that a special prosecutor be appointed to look into the background with regard to Textron activities by Mr. Miller. After some consideration, Attorney General Civiletti decided to decline that request.

Mr. Mullen. That is correct.

Mr. Boyd. Were you in any way involved in seeing what degree of merit that investigation might have?

Mr. Mullen. No, I was not in any way involved in that.

Mr. Boyd. Was the FBI involved, Mr. Mullen?

Mr. Mullen. Had we been involved, I would have been aware of it.

Mr. Boyd. Thank you.

What is the average turnaround time for your standard political appointive background investigation?

Mr. Domzalski. There are a number of deadlines that we use in connection with these cases. Primarily, on a Presidential appointment we give the field 7 days in which to complete the investigation. Judicial appointments are generally set for a 10-day deadline, and the other appointments within the Department of Justice and within the White House usually have about a 15-day field investigative deadline.

Mr. Boyd. That deadline is set by the White House?

Mr. Domzalski. That is our internal deadline. The White House wants the information back as quickly as we can get it.

Mr. Boyd. So about a 10-day period for judges is sufficient time to look into their background and suitability for sitting on the bench?

Mr. Domzalski. Yes, it is, because when the investigative request gets to the field, they assign sufficient manpower to delve into the background thoroughly. If a problem comes up, and we need additional time, then we will present the problem to the Department. There has never been any problem when we have an allegation that we want to run out further. The Department wants it run out thoroughly rather than to arbitrarily meet a particular timeframe.

Mr. Boyd. Thank you. I have no further questions.

Mr. Edwards. When this consent document is signed, are fingerprints taken of the applicant?

Mr. **Domzalski.** The agency, when it submits the background material concerning an applicant, will usually provide fingerprints, the standard Government questionnaire, the SF-86, and necessary waivers for release of records information.

Mr. **Edwards.** Mr. Volkmer?

Gentlemen, thank you very much.

Mr. **Mullen.** Thank you, Mr. Chairman.

[Whereupon, at 10:40 a.m., the subcommittee adjourned.]

○

EXHIBIT NO. 5

in the conditions out of which the said dispute arose.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
April 24, 1953.

EXECUTIVE ORDER 10450

SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U. S. C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U. S. C. 632, *et seq.*); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U. S. C. 118 j); and the act of August 26, 1950, 64 Stat. 476 (5 U. S. C. 22-1, *et seq.*), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237[1] of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

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[1] 3 CFR, 1951 Supp., p. 480.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: *Provided*, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field preappointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835[1] of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 26, 1950.

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[1] 3 CFR, 1947 Supp.

Sec. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: *Provided*, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

Sec. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, sexual perversion, or financial irresponsibility.

(iv) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (7) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

Sec. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

Sec. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

Sec. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: *Provided*, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service

Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

Sec. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked. For the purposes described in section 11 hereof the Loyalty Review Board and the regional loyalty boards of the Civil Service Commission shall continue to exist and function for a period of one hundred and twenty days from the effective date of this order, and the Department of Justice shall continue to furnish the information described in paragraph 3 of Part III of the said Executive Order No. 9835, but directly to the head of each department and agency.

Sec. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

Sec. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, and shall recommend means to correct any such deficiencies or tendencies.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

Sec. 15. This order shall become effective thirty days after the date hereof.

Dwight D. Eisenhower

The White House,
April 27, 1953.

quote, "conduct inquiries concerning the nominee's character, associates, loyalty, and reputation in the community," unquote. Do you recall that?

A In what testimony?

Q This is testimony in an FBI oversight hearing before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary in the House of Representatives in the 96th Congress. It was on March 17th, 1980. It was testimony of Francis M. Mullen, Junior, Assistant Director of Criminal Investigation Division. You were accompanied by John C. Lawn, Section Chief, Civil Rights and Special Inquiries Section; Joseph D. Domzalski, Assistant Section Chief, Civil Rights; and L. C. Groover at that particular time. It was on Monday, March 17, 1980.

A I have no independent recollection right now, but I assume--

Q Well, we will give you a copy.

A I would like to see a copy.

Q All we are trying to do is establish that this is what you really were operating under, the assumptions you were operating under as you did the investigation of the Donovan matter.

A Very good.

Q Okay.

Now, section 8(a) in the Executive Order provides that investigations conducted pursuant to that order should relate but not be limited to information of, quote, "any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy," unquote, and, quote, "any deliberate misrepresentations, falsifications, or omissions of material facts," unquote.

Are you familiar with that, or basically familiar with that?

A I, again, accept your reading.

Q Let me just give this to you so you can--

A Good idea.

Q That will help you.

MR. OLSON: The reference was to section 8(a), Senator?

SENATOR HATCH: Right.

BY SENATOR HATCH:

Q Doesn't the Code of Federal Regulations provide that these applicant investigations are one of the general functions of the FBI? Applicant investigations, that is.

A Yes.

Q In Title 28 CFR part O, subpart P, section 0.85(c), doesn't it provide that the FBI shall, quote, "conduct personnel investigations requisite to the work of the Department of Justice and whenever required by statute or otherwise," unquote? Are you familiar with that?

A I am not familiar with that.

Q Did there come a time, Mr. Mullen, when you became involved in any portion of the applicant investigation of Raymond J. Donovan?

A Yes.

Q What role did you play and when was that?

A I was Executive Assistant Director of the FBI at that time and had responsibility for all FBI investigative activities.

Q Were you directed to assume this responsibility? If so, by whom? Did you coordinate or supervise others? If so, whom did you coordinate or supervise?

A The position was Executive Assistant Director. In reference to that, I was appointed to that position by Director Webster. I supervised many others: two assistant directors--

Q Can you name them?

A Edward J. O'Malley of the Intelligence Division. And at the time of the Raymond Donovan investigation, we had a change in assistant directors. Oliver Revell was Assistant Director of the Criminal Division until the end of December. And at that time Charles Monroe became Assistant Director.

Q As of the start of this investigation, did you know from any source, directly or indirectly, of any allegation, however frivolous in your opinion, including rumors, that Mr. Donovan or Schiavone Construction Company had any association or even met an alleged member or associate of organized crime?

A I do not recall having--

Q This is at the start of the investigation.

A --knowledge. At the start, yes. I do not recall having knowledge at the start of the investigation. Such information later came to my attention.

Q Incidentally, did you play any role in the investigation of any other nominee of President Reagan?

A By a role, I had responsibility for all investigativ activities but no direct role in conducting investigation.

Q Did you know that Director Webster had a conversation, it was actually a meeting, with Mr. Meese on December 5th, 1980, or on any other day about Raymond Donovan or Schiavone Construction Company? Are you aware of that?

A I have since become aware of that. I cannot say that I was aware of it at the time.

Q I see. Did you participate in that conversation?

A No, sir, I did not.

Q So, you don't know what was said then?

A I do not. I have seen documents since.

Q Did Director Webster later discuss that conversation with you?

A I don't recall discussing it with him. He did send a memorandum to me at a later date which I initialled.

Q So, you say you don't remember a discussion but you did get a copy of a memorandum?

A Right. Prepared by Director Webster.

Q To your knowledge, when Director Webster spoke with Mr. Meese on or about December 5th, did he advise Mr. Meese that the name check and indices check of Mr. Donovan had been favorable? In other words, had the investigation up to that point been favorable?

A I believe a name check was conducted and was favorable.

Q Okay.

A By favorable, I mean that no record was located.

(Off the record)

Q Was the first time that you became aware of this meeting between Director Webster and Mr. Meese when you received the memorandum?

A I am not certain of that. It could have been a conversation, Senator, that I just do not recall. I believe that it was the memorandum.

Q On or about the date that the name check was concluded, did anyone advise Mr. Meese that the name check was favorable, to your knowledge?

A Well, from personal knowledge, I don't know; but I do believe Judge Webster's memorandum stated that no record was located. By that, I assume that's what you mean by favorable, that we didn't locate a record.

Q Do you have any information, however indirect it may be, that explains why Mr. Meese nevertheless expressed a concern about organized crime on or about December 5th, 1980? If so, what information do you have?

A I do not have any information indirect or otherwise as to whether he did express a concern or not or whether he would have any basis for expressing such--.

Q But you were aware that he expressed concern and was concerned about that?

A I cannot say that I am aware of that, Senator.

Q To your knowledge, did anybody at the FBI or the Justice Department express concern that there might be some organized crime association with Mr. Donovan or Schiavone Construction Company?

A Not--I assume--what counsel has said, you have not clarified which period you are talking. I guess you are talking--

Q I am talking about that period surrounding the December 5th meeting between Director Webster--

A No. I don't know of any basis of anybody expressing concern or that anybody did. No one did to me.

Q When was the first time that anybody at the FBI did express concern about an organized crime connection, the possibility--

A We are going back a year and a half now, Senator.

Q True.

A My sense of it is that, when I became more involved than I normally would was when the Picardo allegations arose. That's when the thing really in my mind picked up interest and momentum.

Q Let's go back to that December 5th time. Do you know whether the FBI, including Director Webster, provided Mr. Meese any information that caused Mr. Meese to make this request, expressing his concern about organized crime connections? And did you personally have any conversations concerning that?

A Can I have the first part again? Do I have any information at all? I do not and I did not personally have any conversation.

Q Did Mr. Donovan advise Mr. Meese that either he or his company had received notice of the Title three overhear?

A I have no knowledge at all of that, no, sir.

Q To your knowledge, did Mr. Donovan receive any notice of the Title three overhear?

A I have no knowledge at all of that.

Q In December, 1980, what documents in the Department of Justice or the FBI would you have checked to determine whether an individual or corporation had been mentioned in a major case or organized crime case?

A In December of 1980?

Q Yes.

A No, I personally would not have checked any. That would have been handled at perhaps a unit or section level in the FBI Criminal Investigative Division--

Q In other words, somebody that you supervised or somebody that worked below you would have done the checking?

A Yes, well down below. And would have checked the indices, which is the indices at FBI headquarters, and perhaps in the field office, in a field office.

Q Would he have checked the ICIS system?

A ICIS. I don't think we have that system. I think you may be referring to OCIS, Organized Crime Information System.

Q Yes.

A Not normally.

Q Not normally. Did you ever in this case check the OCIS system?

A I did not, nor did I ask that it be checked. But I understand that--and this is from documents I have read since the hearing--that Mr. Revell checked the OCIS system or had it checked.

Q The OCIS check would have contained the HOPEX or the Hoffa extortion materials. Is that correct?

A It may have contained it, Senator. This is a new system, Senator Hatch. We eventually hope to have in the area of 26 offices on line. We are just in the process now of putting material into the system. It may or may not, depending on which office. Now, if it were Detroit, it may have contained that information because I think that was the first office to start entering material.

Q Is this a computerized system?

A It is a computerized system, yes, sir.

(Off the record)

Q Let me mention to you, Mr. Mullen, the OCIS system existed, according to Director Webster, in March of 1979.

A That's right.

Q It is my understanding that it contained all 24,000 references to individuals and corporations mentioned on the so-called Maselli tapes in New York and that these acronyms, the OCIS, I believe--and correct me if I am wrong--refers to separate disks or tapes upon which the information is stored. Is that correct?

A I think we may be talking about two systems, Senator.

Q I think there was an ICIS system--

A No. It is ISIS, Investigative Support Information System.

Q That's it.

A This would be an individual case system.

Q And then OCIS is--

A Organized Crime Information System.

Q What is ISIS?

A ISIS would refer to an individual case. We have a major case--

Q What does the acronym mean, though?

A Investigative Support Information System as opposed to Organized Crime Information System.

ISIS, when we have a major case as, for example, the murder of Judge Wood out in Texas, we put that one case in the Investigative Support Information System to support that particular case.

Q I see.

A That would not go into the OCIS system, nor would it go into general indices.

Q Is that computerized at all? Or is that just a--

A That is computerized within an office. It could be accessed by headquarters.

Q Are these centrally computerized systems? Or are they computerized solely within each individual--

A Well, the OCIS system is centralized. Any office, for instance, the Detroit office could make an inquiry on a case in the New York office, in OCIS. But ISIS, the individual office can make a query of the system, as could FBI headquarters.

Q Is there any regular practice observed by the bureau embodied in any written document regarding memos to file?

A As to when you would prepare one or put it in file?

Q What is the regular practice with regard to that?

A Memorandum to the file?

Q Sure.

A I will think about that one for a second.

I am not certain of when a memorandum is prepared or where there is a written requirement. It would seem to me that there would be. If I could elaborate--

Q Sure, go ahead.

A --we do prepare the FD 302 when information is obtained that may become testimony. Then we prepare the form FD 302. But, with regard to memorandum, you prepare--I think, if I recall correctly, as I would do it and as I did it as an agent, good judgment would dictate. When you have a contact, you may want to have a record of it in file.

Q Which system would the Maselli tape material be in? Would that be in ISIS or OCIS?

A That would be on ISIS system.

Q What about HOPEX, the Hoffa extortion materials?

A HOPEX would be ISIS also. But I do believe that, because of the magnitude of the case and the individuals involved or suspected of being involved, that some of that material may be in the OCIS system.

Q What about, say, the Harry Gross incident that was involved in the Donovan matter? Harry Gross, the union business agent, would that be in either of these systems?

A I don't know.

Q I have a copy of Director Webster's memo, which we will mark as Committee Exhibit No. 6.

(Exhibit No. 6 was marked for identification.)

BY MR. HATCH:

Q You know what I am talking about here?

A Yes. When I refer to it, I would like to have a look at it.

Q Why don't you push your table up and then we can just hand these over?

Director Webster's memo, does that conform with those guidelines?

Who typed this on the bottom, do you know?

A I do not know.

Q Well, apparently, the typing on the bottom indicates what the handwriting at the top says. But does this memorandum conform with the guidelines regarding memos to file?

A Which guidelines?

Q Regarding memos in files, memos to file.

A As I indicated earlier--

Q I guess they could be in any form, couldn't it? Any memorandum to file could be in any form, right?

# 6

DIRECTOR

EXHIBIT NO. 6

/ Mullen 7/1/82

12-5-8

Cf. Ed Meese — 3pm

1) P. Donovan inq.
- OK to do full field if any OC — but I will call Ed first

2) Wants a direct contact with Jim Baker for W.H. appointments

— C. Monroe

"12-5-8"

Cf. Ed Meese - 3 pm

1) P. Donovan inq.
OK to do full field if any OC -
but I will call Ed first

2) Wants a direct contact with James Baker for W.H. appointments
- C. Monroe "

A No, there is normally a format for putting a memorandum into file.

Q So, I take it this one would not conform to the normal format?

A This does not take the format of a memorandum, no. There is a regular form. I don't recall the number, but this is not a--it is not a memorandum to a file.

Q Are the memoranda submitted to file normally dated and signed or initialled in any particular manner?

A Dated, yes, and normally the name of the agent preparing the memorandum. And then, when an item is placed in file, it is normally approved by a supervisory official for placement in file.

Q I see. When is the first time you saw the director's memo to file regarding his conversation about organized crime with Mr. Meese?

A Now, are you referring to this as a memorandum to file?

Q Right.

A I don't believe that we can call this a memorandum to file.

Q Well, the director's memoranda--

A I could call this a note, director's note.

Q Okay.

A I don't recall the exact date. It would have been very recently.

Q Could it have been on December 5th, 1980?

A I do not recall seeing it at that time.

Q This memo refers to the direct contact between J. Baker and C. Monroe. Do you know if such a contact was established?

A I recall being made orally aware that Mr. Monroe--I do recall being advised that Mr. Monroe would be the contact point for the transition team at the FBI and that Mr. Baker would be the contact point at the White House.

Q Was the Donovan applicant investigation the subject of such a contact?

A I don't know--

Q It would have been done pursuant to the Donovan applicant investigation, wouldn't it?

A Based on a conversation recently with Mr. Monroe, I don't think he had contact with Mr. Baker. But I would have to let him speak for himself on that, Senator Hatch.

Q Are you aware that Director Webster went to New York on or about December 10th, 1980? I have a memorandum to Mr. Mullen from the Director, which is dated December 15th, 1980.

A I am aware based on that--

Q You are aware on that?

A Yes.

Q So, you are aware that he went to New York and that he--does this memorandum contain your initials?

A It does.

Q As I understand it, this memorandum states that Director Webster spoke to you on December 10th, 1980 about the Donovan investigation. And there is a memo of December 15th, 1980, at least by December 15th, 1980, about which you knew, this memorandum.

A That is correct.

Q For what reason did Mr. Webster go to New York, if you know?

A I do not know.

Q On December--

A Excuse me, Senator, if I could just say. I am not independently aware that he was in New York. I am aware from this document.

Q Okay. In December, 1980, who was the Special Agent in Charge of the New York field office? Who was the Special Agent in Charge of the New York field office at that time, if you recall?

A There was a change during this period. I believe Neil Welch was SAC and was replaced by Lee Lassiter. Whether that occurred about that time or just after, I am not sure. So, it was either Neil Welch or Lee Lassiter.

Q Who ran the office at that time? Who was in fact responsible for the Maselli investigation?

A Well, the New York office is one of our largest and does not have an SAC. It has an assistant director in charge. It is broken down into divisions. The Maselli investigation would have been handled by one of those divisions. I do not recall which one. It may have been Brooklyn-Queens, but I am going by memory.

Q Was the Maselli investigation a Bronx investigation?

A I am not certain, sir.

Q Did Director Webster meet with SAIC Kenneth Walton and, if so, about what?

A I do not know.

Q You did not accompany Mr. Webster?

A I did not.

Q Assuming he went to New York--

A Yes.

Q So, you don't know whether he met with Kenneth Walton or not or talked to him or not?

A No.

Q Do you know if Director Webster travelled to New York exclusively because of the Donovan investigation?

A I do not know.

Q Did the Donovan applicant investigation have anything to do with that trip at all, in your opinion?

A In my opinion?

Q Yes.

A It did not. But I just don't know.

Q What about the investigation of Jo-pel and Masselli? Did it have anything to do with that?

A In my opinion it did not. But I have to let Judge Webster--

Q Did Mr. Webster make that trip as a result of his discussion with Mr. Meese or for any other reason related to the Donovan matter?

A I believe if this were the case, Senator Hatch, he would advise me so. I believe you would have to ask Judge Webster why he was there. I am sure his logs would show. I would presume it would be a speech or something of that nature.

Q When you spoke to Mr. Webster on December 10th, 1980, if you recall, what was said?

A I do not recall.

Q Does the memorandum refresh your recollection at all?

A Just that there must have been a conversation.

Q Do you personally have any memoranda of that conversation?

A I do not.

Q Did you have any earlier conversations with Director Webster about the background investigation of Donovan? If so, what was said? Were there any memoranda of those earlier conversations?

A I do not recall earlier conversations nor do I know of any memoranda.

Q Isn't it true that the FBI practice in an applicant investigation in December, 1980 was only to do a name check of the applicant prior to his actual nomination? That has been changed, as I understand it, since; but at that time it was basically to do a name check.

A I don't know that it has been changed but to officially requested to conduct an investigation a name check would be conducted.

Q Isn't it true that the name check was only made in two locations: one, at FBI headquarters; two, where the individual was residing? At that time. The regular practice at that time.

A Senator Hatch, I am not certain what the regular practice is. I think we are talking about several areas here. There is an original list containing many more names than those actually nominated. And I believe a name check is conducted only at headquarters.

Q Okay. You testi--

A When we get specific names, I think then we get the headquarters and the field office.

Q You testified before this Committee that, quote, "normally in connection with a nomination we are asked to do what is called a name check, and that is a review of our indices: one, here in Washington and, two, normally at the location where the individual is residing. And that is all we are asked to do at the outset before the applicant is nominated, I take it, and then there is a full field investigation," unquote.

Now, is that all that the FBI did in the applicant investigation of Mr. Donovan before he was nominated?

A That's all that I was aware of at the time. I believe, Senator Hatch, I also testified that we received a rather lengthy list of names and conducted only a name check at headquarters on those. Then, when you get a specific name for a specific position, then--

Q The reason I asked that question is because in this December 15th, 1980 memorandum to you from the director he does say: I checked with Mr. Revell, and based on information which he supplied as well as any recollection of conversation with Mr. Mullen while I was in New York on December 10th, that we had reviewed all our indices and had checked with all field offices and nothing negative had been disclosed.

So, I take it that there was more done in this investiga--

A That's inaccurate, that--we did not.

Q You did not do that?

A Did not do that.

Q So, the director thought that you had but you really hadn't?

A That would appear to be the case, because we certainly did not check with all field offices.

Q In the applicant investigation--let me restate that.

Are you stating then that in the applicant investigation of Mr. Donovan that all field offices were not checked prior to his nomination?

A Yes. That is what I am stating.

Q Okay. How do you know that, since the director said they were, in this memorandum?

A Misunderstanding.

Q Okay. For what reason did the FBI--well, let me withdraw that question.

As I understand it, when you did do the name check on Mr. Donovan, you checked both Ray Donovan and the Schiavone Construction Company. Is that correct?

A I see by this memorandum that that is the case.

Q Director Webster's memorandum to you reported that Schiavone had appeared, quote, "a number of times," unquote, in the HOFEX investigation, which was probably out of the Newark field office. Is that also correct?

A I do not know that it would be the Newark field office.

Q But it is a fact that he reported that Schiavone had appeared, quote, "a number of times," unquote, in the HOFEX investigation?

A Senator Hatch, I will have to base an answer on what I see on this memorandum. If this is what is stated here, then that would be the case.

Q Did you discuss the HOFEX investigation with the director or anybody else in December of 1980?

A I don't recall discussing the HOFEX investigation in connection with the Donovan matter at any time.

Q What does HOFEX stand for?

A Hoffa execution, I believe.

Q So, it is the Hoffa execution, not Hoffa extortion?

A I believe it is the Hoffa murder.

Q I think you are right on that.

You are saying you did not, to the best of your knowledge, discuss the HOFEX investigation with the director after December, 1980, or during this period of time? You don't ever recall--

A I don't recall discussing it.

Q Did you discuss it with anybody else during the course of this investigation?

A No, sir.

Q When did you first become aware of this HOFEX investigation?

A Well, I have been aware of an ongoing investigation of the murder of Jimmy Hoffa since its inception.

Q As I understand it, this is the publicly-reported investigation that commenced with the disappearance of James Hoffa in July, 1975.

A That's right.

Q How frequently, if you know, did the Schiavone Construction Company appear in reports in that investigation?

A I do not know.

Q Director Webster's memo says a number of times Picardo, as I understand it, says many times. Is that correct? Are you aware of that?

A I can see what the director says here in this memorandum. I am not aware personally what Picardo says.

Q Do you know who does know on that?

A If you could possibly give me a lead as to your source, I could find out.

Q Well, Picardo told us that Schiavone appeared many times in the HOFEX investigation. And, of course, the director's memo says a number of times.

But you don't know--

A I don't know.

Q --who down at the FBI would have said that?

A Oh, who down at the FBI would have said it?

Q Yes.

A I do not know.

Q Would that show up if you did a computer search of that question?

A It possibly would show up, yes, sir.

Q I take it that is one of the names that would be able to be located if you plugged in the computer program. Is that right?

A What name?

Q Schiavone Construction Company.

A If it's indexed, it will show up.

Q Which of these computer systems would you ask for that if you had to start afresh?

A I would ask several. I would go to general indices, might try OCIS, and then ISIS, the Investigative Support Information System, pertaining to the Hoffa case.

Q Do you know if Salvatore Briguglio was mentioned in that investigation, the HOFEX?

A I do not know.

Q Was Anthony Provenzano mentioned in that investigation?

A Yes.

Q Was Phil Bernard, quote, "the Brother," unquote Moscato mentioned in that investigation?

A I do not know.

Q Are Briguglio, Provenzano, and Moscato associates or members of the Genovese crime family, to your knowledge?

A To my knowledge, I am not sure.

MR. HATCH: Let me put into the record a New York Times article dated Saturday, January 31st, 1976. Picardo named Salvatore and Gabriel Briguglio, who are brothers, and Thomas Andretta as, I take it, three people who he named as New Jersey Teamsters who kipnapped and killed James R. Hoffa on July 30th and then said that Hoffa had been buried in Moscato's Dump in New Jersey, in Jersey City. Let me just put that in the record as Committee Exhibit No. 7.

(Exhibit No. 7 was marked for identification.)

BY MR. HATCH:

Q Ralph Picardo was an informant in the Hoffa investigation. Is that correct? Are you aware of that?

A I would have to check that. I can't say from independent knowledge that he was. I believe he did testify in a case involving Provenzano.

Q So, basically, you don't know whether Schiavone was or was not mentioned many times--

A I do not.

Q --other than the director's memorandum.

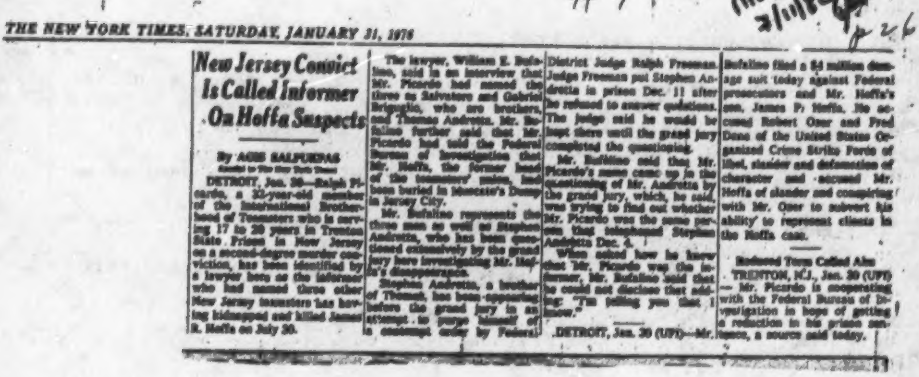
A That is correct.

Q But you did know it at that time. Right? When you got the memorandum.

A That's right.

Q Did you do any checking in the systems, or did you

EXHIBIT NO. 7



#7

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THE NEW YORK TIMES, SATURDAY, JANUARY 31, 1976

New Jersey Convict Is Called Informer On Hoffa Suspects

By AGIS SALPUKAS
Special to The New York Times

DETROIT, Jan. 30—Ralph Picardo, a 32-year-old member of the International Brotherhood of Teamsters who is serving 17 to 20 years in Trenton State Prison in New Jersey on a second-degree murder conviction, has been identified by a lawyer here as the informer who had named three other New Jersey teamsters 'as having kidnapped and killed James R. Hoffa on July 30.

The lawyer, William E. Bufalino, said in an interview that Mr. Picardo had named the three as Salvatore and Gabriel Briguglio, who are brothers, and Thomas Andretta. Mr. Bufalino further said that Mr. Picardo had told the Federal Bureau of Investigation that Mr. Hoffa, the former head of the teamsters' union, had been buried in Moscato's Dump in Jersey City.

Mr. Bufalino represents the three men as well as Stephen Andretta, who has been questioned extensively by the grand jury here investigating Mr. Hoffa's disappearance.

Stephen Andretta, a brother of Thomas, has been appearing before the grand jury in an attempt to purge himself of a contempt order by Federal District Judge Ralph Freeman. Judge Freeman put Stephen Andretta in prison Dec. 11 after he refused to answer questions. The judge said he would be kept there until the grand jury completed the questioning.

Mr. Bufalino said that Mr. Picardo's name came up in the questioning of Mr. Andretta by the grand jury, which, he said, was trying to find out whether Mr. Picardo was the same person that telephoned Stephen Andretta Dec. 4.

When asked how he knew that Mr. Picardo was the informer, Mr. Bufalino said that he could not disclose that adding: "I'm telling you that I know."

DETROIT, Jan. 30 (UPI)—Mr. Bufalino filed a $4 million damage suit today against Federal prosecutors and Mr. Hoffa's son, James P. Hoffa. He accused Robert Ozer and Fred Dana of the United States Organized Crime Strike Force of libel, slander and defamation of character and accused Mr. Hoffa of slander and conspiring with Mr. Ozer to subvert his ability to represent clients in the Hoffa case.

Reduced Term Called Aim

TRENTON, N.J., Jan. 30 (UPI) — Mr. Picardo is cooperating with the Federal Bureau of Investigation in hope of getting a reduction in his prison sentence, a source said today.

direct anybody to do any checking?

A I did not--

Q Did you personally or direct anybody to do any checking in these systems to find out how often the Schiavone Construction Company was mentioned?

A I did not. On both questions.

Q How did Director Webster learn, if you know, about the HOFEX investigation and about the fact that the Schiavone Construction Company was mentioned in the HOFEX investigation many times?

A I do not know.

Q You don't know whether the director checked the New York field office's own records?

A I don't know.

Q Do you know whether the HOFEX investigation was in the Newark, New Jersey office?

A The office of origin, the main office in the Hoffa investigation, I believe, is Detroit because that is where the crime occurred. But I am sure that Newark has had extensive investigation in the case.

Q When is the organized crime information from the New York region available in any computer data bank, to your knowledge?

A I would have to check with our computer systems division. Offices were coming on line during this period and, I believe, are still coming on line.

Q If the originating office was Detroit, then how would the director have received this information unless he checked or somebody checked the Detroit originating source?

A As I indicated, I don't know how he received the information. But the OCIS system, Organized Crime Information System, can be accessed by any office having an OCIS terminal. And--

Q Even though--

A --Detroit may have been office number one, and I am sure New York was one of the early offices to go on line. If there was a query made. I don't know that it was.

Q So, the director had to make more than just a name check inquiry in order to have been able to find that Schiavone was mentioned many times in the HOFEX investigation.

A Possibly not. The HOFEX investigation could be contained in the general indices of an office also.

I can't say that it was or was not in this case, but I would assume in any office indices because it is such an important investigation that most of our offices in the country would have some reference to Jimmy Hoffa and have been asked at one time or another to conduct some sort of investigation.

Q Now, you are aware that one of the people handling nominations in the White House at the time was Mr. Pendleton

James. Are you?

A I have heard his name. I don't know when he assumed his position.

Q If you know, what, if anything, did Mr. James say in response to Director Webster's disclosures about HOFEX and that investigation?

A I have no knowledge, Senator.

Q Of the nominees to the cabinet, was Mr. Donovan's background investigation the last one to be accomplished or to be done?

A I don't know if it was the last one to be done. I think it required the most effort. I don't recall the order in which they were completed. I believe they all come in at the same time by way of request. But, when they were completed, I can't say.

Q But his required the most effort and lasted the longest?

A I believe that it did, yes.

Q I am talking about prior to the nomination or prior to any other nomination, did the FBI inquire of every field office in any other nomination?

A Not to my knowledge.

Q You don't know, frankly, whether they did in this case, even though the director said they did? You don't believe they did?

A Well, he's saying I said they did.

Q And you're saying that they did not?

A It was not practice. I couldn't think of any reason why they would have done so.

Q Was Mr. Donovan's nomination delayed because of any organized crime allegations, to your knowledge?

A Not to my knowledge.

Q The December 15, 1980 memo from the director to you indicates that, in addition to his conversation with you on December 10th, he also checked with Mr. Revell in responding to Mr. James. What is Mr. Revell's full name?

A Oliver W. Revell.

Q What was his position at that time?

A He was Assistant Director, Criminal Investigative Division.

Q What is his position now?

A He is Assistant Director of the Criminal Investigative Division.

Q What was his function relative to the Donovan inquiry?

A He had command of all criminal and applicant investigations.

Q Do you know what he informed the director of on that occasion? Do you have any knowledge of that?

A I do not.

Q Did you discuss the matter with Mr. Revell either before or after the December 15, 1980 memorandum?

A Did I discuss the matter with him?

Q Did you discuss it with him, either before or after?

A I discussed it recently with him but not at this time.

Q What did that discussion consist of?

A Basically, the check of all offices, as I recall the conversation with Mr. Revell, he--it was kind of a loose conversation: We don't check all offices on applicants. And he said: no, I'm sure we didn't. I just wanted to confirm my recollection on that.

Excuse me just a moment, Senator.

(Off the record)

Q If in fact you had checked all offices, they would have to have that on teletypes. Right? Because you would normally send out teletypes to check.

A If we checked all offices, we would have had to have done that by some communication. If not a teletype, what we call an airtel.

Q You call what now?

A An airtel. That's an air mail teletype.

Q Has anybody checked the teletypes or--

A I did not ask that a specific check be made. But with the close examination of all the documents in this matter because of the questions that have come up, I am sure such a communication would have surfaced.

Q Could you check that for us or get that checked?

A I will check that for you, Senator, certainly.

Q Okay.

Do you know if any documents relating to this investigation, airtels, teletypes, or any other type of document, have any of them been destroyed?

A I know of no document that has been destroyed.

Q Did the director or anyone else consult with you about his conversation with Mr. Meese on December 12 in which he advised him that there was no investigation of Mr. Donovan?

A I don't recall him consulting with me personally. It seems that I do recall that he may have checked directly with the division or the section.

Q Who would have checked?

A Who would have?

Q Yes.

A I don't understand. The director you're saying?

Q You would have checked with the division. Who would you have checked with specifically?

A In a special inquiry case, at the time it could have been Mr. Revell or it could have been Mr. Schulte, the section chief of the Special Inquiry Section.

Q Prior to December, 1980, to your knowledge, was Schiavone the subject of investigation in the Eastern District of New York because of Montuoro's allegations about ghost employees?

A It's been, again, one and a half years since my testimony. I believe in my testimony, opening statement, I referred to two investigations. I can't recall at this time exactly what they pertain to.

Q Were you aware of this investigation caused by Montuoro in December of 1980?

A No.

Q Isn't it a fact that, prior to December, 1980, Schiavone had been the subject of investigation of the Eastern District of New York in connection with the alleged extortion by Harry Gross? Or didn't you know about that?

A I didn't know about that.

Q Isn't it a fact that Schiavone officials and company records have been subpoenaed in the Eastern District investigation? Prior to, or in December of 1980, were you aware of this investigation?

A In December of 1980?

Q Right.

A Not in December of 1980.

Q Are you aware that by December, 1980, Schiavone had been the subject of an investigation by the Southern District of New York in connection with the establishment of Jopel?

A The question is, Senator Hatch, was I aware of this in December of 1980?

Q Right.

A I was not.

Q Even though you may not have been aware of those at the time, in December of 1980, it is a fact that those investigations were in fact being undertaken and that Schiavone was the subject of investigation in the Southern District and was the subject of investigation in the Eastern District: Eastern District for Harry Gross; Southern District in connection with the establishment of --

A I would have to check records to be exactly -- which investigations we are talking about. I did refer to two in my testimony before your Committee.

Q You are saying that in December of 1980 you were not aware of these investigations?

A That is correct.

Now, Senator, I think I should mention at this time that at my level, as the Executive Assistant Director, I mentioned that at that time there was 86,000 cases and many other things were occurring: the murders in Atlanta, the murder of Judge Wood, the activity with the Iranians, plus the intelligence activities I supervise. A lot of things come to my attention and, of course, I stay very close to those which are important. Others I am not able to stay as close or was not able to stay as close.

So I think we should bear this in mind, that things may have come to my attention. I may have seen hundreds of documents over a week's period of time.

Q Okay.

Do you know if it is true that neither the President-elect nor his transition team were informed of any investigation other than the HOFEX investigation in December of 1980?

They just plain weren't aware of any of these investigations?

A I am sorry. Who was not aware?

Q The President-elect or any member of his team.

A In December of 1980, aware of --

Q Transition team.

A Were aware of?

Q They were not aware of any investigations other than the HOFEX investigation, and you are not sure if they were aware of that?

A That is right, not to my knowledge.

Q Okay.

What field office or offices were responsible for these investigations involving Gross, Montoro's allegations, and Jo-pel? Could you give us the special agent or agents who were in charge of those offices, if you know?

A I do not know. If I may get that for you for the record.

Q All right, if you would. If you could submit that in writing for the record, we would appreciate that. Or you can just tell us -- I don't know whether we will finish this today. If we don't, you can just tell us. I am trying but it isn't easy.

If it was not the field office's responsibility, whose responsibility was it to provide such information?

A To whom?

Q To you or anybody else involving the -- involved in the investigation pertaining to Mr. Donovan.

A I really don't understand the question as to what we are talking about in the way of responsibility.

Q As I understand it, there are field offices who were responsible for the investigation involving Harry Gross, Montoro's allegations, Joe Pell, et cetera, et cetera. I would ask you to provide for us who the special agents in charge were of those offices and whose responsibility it was to provide such information and why it wasn't provided. Or if it was --

MR. OLSON: I think the witness doesn't understand the last part of your question, Senator, about the responsibility to provide information.

THE WITNESS: At what point or why. You mean in connection with the special inquiry investigation?

BY SENATOR HATCH:

Q I am talking about prior to the actual nomination itself and then we will get into subsequent to the nomination itself.

A There may not have been a responsibility to --

Q What you are saying is there may not have been a responsibility under the guidelines you were acting under?

A That is correct. It may -- there are guidelines as to when information is furnished to headquarters, but just when there is a conviction or prosecution. Like we have to record events such as that. But there could well be cases ongoing until they reach a certain point that are not provided to headquarters.

Q In the letter from Senator Kennedy and myself to Director Webster, dated December 31, 1980 -- I will give you a copy of this.

The Committee asked, "to have a report immediately regarding all the information the FBI has already assembled in connection with your background investigation of Mr. Donovan."

We will mark this letter as Committee Exhibit No. 8.

(Exhibit No. 8 was marked for identification.)

BY SENATOR HATCH:

Q Are you familiar with this letter?

A I have seen it, yes.

Q Did anybody from the Administration, to your

[illegible]
[illegible]

EXHIBIT NO. 8

#8

Mullen
7/14/82
QA

December 31, 1980

Honorable William H. Webster
Director
Federal Bureau of Investigation
Department of Justice
Washington, D.C. 20530

Dear Mr. Webster:

The Senate Labor and Human Resources Committee will soon consider the expected nomination of Raymond J. Donovan to be Secretary of Labor.

In this connection, we have noted recent press reports of inquiries by the Department of Justice concerning the Schiavone Construction Company of Secaucus, New Jersey, in which Mr. Donovan has been a senior executive. According to the press reports, these inquiries centered around investigations in 1969 and 1970 of political corruption in Newark, New Jersey, which eventually resulted in the conviction of the Mayor of Newark, Hugh J. Addonizio.

We would like to have a report immediately regarding all the information the FBI has already assembled in connection with your background investigation of Mr. Donovan. In addition, if the FBI background investigations already conducted regarding Mr. Donovan did not fully deal with all matters relating to the prior Department of Justice inquiries relating to the Schiavone Construction Company or Mr. Donovan, we ask that this be initiated immediately, and a report be provided to us by January 7, 1980.

Thank you for your immediate attention to this request. If any member of your staff has any further questions, please have him contact John Casciotti at 224-4062 or Lawrence Horowitz at 224-9789.

Sincerely,

Edward M Kennedy
Edward M. Kennedy
United States Senator

Orrin G. Hatch
Orrin G. Hatch
United States Senator

cc: Honorable Benjamin R. Civiletti

knowledge, say in words or substance that any of the information made available to the President-elect or his designated representative in the applicant investigation should not be made available to the Committee or its representatives?

A Absolutely not.

Q Now, that information, including the reference to the HOFEX investigation, mentioned in the Director's December 15, 1980, memorandum to you -- were you aware that they knew about that as well? I think you said you were --

A You have kind of lost me here.

Q I think what you said was, to your knowledge, you don't know whether they knew about the HOFEX investigation or not?

A From my personal knowledge, I do not know.

Q And your statement here today is that you don't know of anybody, including the President-elect or any designated representative of the President-elect, who asked -- asked that information not be made available to the Committee?

A I can state that I know of no one asking that information not be provided to the Committee.

Q While you acknowledge the FBI's responsibility to conduct a background investigation for the President-elect, do you also acknowledge the FBI's responsibility to give to the Senate the information that the Senate requests, or did you feel that you were operating basically as the agent of the Administration?

A At the time I believe we were operating as the agent of the Administration.

Q In other words, you thought you were working for the new Administration that was coming in and making the nominations?

A That is correct. As a matter of fact, there is a specific memorandum of understanding stating that we would furnish results of investigations.

Q Okay.

But now you at least acknowledge the FBI's responsibility to provide information in Senate confirmation proceedings to the appropriate Senate committees?

A At the time, Senator Hatch, it was my understanding that we provided the information to the transition team who then -- in the special inquiry cases, who then provided it to the Senate.

Q So far as you were concerned, it was up to the transition team to make the information available to us rather than the FBI?

A That is correct.

Q Unless we specifically requested it from you?

A This particular special inquiry took a turn special when the Picardo information came up and --

Q That is when you started --

A The time element, and it was almost a simultaneous, giving it to the Committee and to the transition team.

Q So if we go back to that period of time between, say, December 31st and up through the first hearing on January 12th, you were acting under the assumption that you felt was the process of the past or at least the procedure of the past, that your job was to serve the White House, and in this case the President-elect?

A Yes, sir.

Q And his transition team or his delegate?

A Yes, sir.

Q Or nominees to -- with regard to the providing of information and, as far as you were concerned, it was up to the -- to those who were handling it for the new Administration to inform us of whatever they wanted to inform us?

A That is correct.

Q That has been basically the process, according to our former conversations that we have had informally prior to this Donovan matter. Is that correct?

A Yes, sir.

Q And you were totally acting under that particular assumption until Picardo allegations surfaced -- until the Picardo allegations surfaced?

A That is correct, Senator Hatch.

Q Now, do you recall testifying on March 17, 1980, that if the Senate wanted something at a confirmation hearing, they could request it and get it? Now, that was -- at the time Representative Volkmer asked you, "If they," meaning Senators, "wanted something, they could request it and they could get additional, too, could they not?"

And your answer was, "That is correct."

Do you recall that testimony?

A I really don't. I would like to --

Q But even if you did, and even if that is accurate, and we will put that into the record at this point --

A That is right.

Q Even if that is accurate, what you are saying is, as far as you were concerned, you would give Senators whatever they requested, but they would have to request it. Otherwise, you gave it to the Administration or to the Executive Branch of Government?

A May I read this?

(Pause.)

Q Do you see what I am referring to?

A I do.

Q What we are trying to do is establish just what the procedure was because, you see, one of the problems in this matter is what should the procedure be because we think it was gummed up pretty badly in the process and if we can -- if we have to do our job as a confirming body, we ought to have access to the information in order to make a proper confirmation decision or at least make the decisions that respective Senators wanted to make in any confirmation process.

You see, on December 31, 1980, our letter to the Director, Mr. Webster, signed by both Senator Kennedy and myself, mentions that in this connection we have noted recent press reports of inquiries by the Department of Justice concerning the Schiavone Construction Company of Secaucus, New Jersey, in which Mr. Donovan has been a senior executive. According to the press reports, these inquiries centered around investigations in 1969 and 1970 of political corruption in Newark, New Jersey, which eventually resulted in the conviction of the Mayor of Newark, Hugh J. Addonizio.

Then we go on to say: "We would like to have a report immediately regarding all the information the FBI has already assembled in connection with your background investigation of Mr. Donovan. In addition, if the FBI background investigations already conducted regarding Mr. Donovan did not fully deal with all matters relating to the prior Department of Justice inquiries relating to the Schiavone Construction Company or Mr. Donovan, we ask that this be initiated immediately, and a report be provided to us by January 7, 1980."

So, you can see what I am talking about.

A And your question here is?

Q Isn't it a fact that despite this Committee's express request in that particular letter, the FBI did not provide this Committee the information referred to in Director Webster's memorandum relating to the HOFEX investigation in any form and at any time before June 28, 1982?

A I would have to see our response -- we did respond to this letter, I assume?

Q Yes, but you didn't give us the information that you had in your possession at that particular time, information that we, I think, had expressly requested.

A I would have to compare the request and the response, Senator.

Q The first response we got was January 7, 1981, and we will mark that as Exhibit, Committee Exhibit No. 9.

(Exhibit No. 9 was marked for identification.)

1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

Mullen
2/11/82

EXHIBIT NO. 9

January 7, 1981

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D. C.

Dear Mr. Chairman:

The enclosed letterhead memorandum is furnished in response to a letter submitted by you and Senator Kennedy on December 3, 1980. You expressed concern regarding investigations in 1969 and 1970 about the Schiavone Construction Company of Secaucus, New Jersey, in which Mr. Donovan was a senior executive.

This inquiry centered around public corruption in Newark, New Jersey, which eventually resulted in the conviction of Hugh J. Addonizio, Mayor of Newark, New Jersey.

Senator Kennedy contacted the Attorney General regarding this request and some modifications were made. The letterhead memorandum contains information in line with these modifications.

Sincerely yours,

William H. Webster
Director

By Lee Colwell, Acting Director

hand delivered to DAAG Jack Keeney per instructions ADAG: Bob Keuch 1/7/81 5:05. RHP

Enc.
1 - Assistant Attorney General
Office of Legislative Affairs

NOTE: Prepared in response to request of Senate Labor and Human Resources Committee for information concerning Donovan and company in which he is partner. Enclosure to letter to Senator Hatch which is being forwarded to Office of Legislative Affairs in Department. Copy also forwarded to Office of President-elect.

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(5)

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APPROVED:
Adm. Serv.
Director
Legal Coun.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

January 7, 1981

RAYMOND J. DONOVAN

The central files of the FBI, including the files of the Identification Division, were checked by name only, and contain no information concerning Mr. Donovan. However, records indicate the Schiavone Construction Company, Secaucus, New Jersey, is partially owned by Mr. Donovan.

The files of the Newark Division of the FBI were reviewed concerning a case entitled "Hugh J. Addonizio et al; Anti-Racketeering-Hobbs Act; Obstruction of Justice" which involved an FBI investigation in 1969 and 1970 into alleged payoffs made to Addonizio, then mayor of Newark, New Jersey, and other members of the Newark city administration. The review of these files did not locate any reference to Raymond J. Donovan or the Schiavone Construction Company.

A review of the indices of the Newark Division of the FBI disclosed the United States Attorney's Office at Newark, New Jersey, requested investigation in 1969, into the Kantor Supply Company, Newark, for possible Hobbs Act violations in connection with the Addonizio investigation. The request indicated that Irving Kantor, a principal of the Kantor Supply Company, notified the United States Attorney's Office that he set up a fictitious company under the name Kantor Supply Company to supply fictitious invoices for the purpose of "washing" money. The file indicated Mr. Kantor was interviewed by Agents of the Internal Revenue Service at which time he furnished to them the names of the companies in New Jersey who dealt with the Kantor Supply Company. These names were furnished to the United States Attorney's Office at Newark by the Internal Revenue Service. The Schiavone Construction Company was one of the names furnished to the United States Attorney's Office. The file indicates the United States Attorney's Office determined the Schiavone Construction Company was engaged in a construction project on the New Jersey Turnpike within the Newark city limits during the period covered by the Addonizio indictment and paid the Kantor Supply Company approximately $13,000 to dump uncleaned excavation on property owned by Kantor. The Schiavone Construction Company was not named in the indictment and was considered by the United States Attorney's Office only to be a company engaged in public projects within the period covered by the indictment. The investigation of the Kantor Supply Company was closed by the Newark Division of the FBI April of 1970 with no active investigation having been conducted by the FBI. The Newark FBI file does not indicate what, if any, further action was taken in the matter by the United States Attorney's Office.

BY SENATOR HATCH:

Q This had gone to Mr. Mullen, Mr. Monroe, Mr. Bruemmer, Mr. Schulte, and Mr. Adamski. And it is a letter from Mr. Webster:

"Dear Mr. Chairman: The enclosed letterhead memorandum is furnished in response to a letter submitted by you and Senator Kennedy on December" -- and that should be 31st -- "1980. You expressed concern regarding investigations in 1969 and 1970 about the Schiavone Construction Company of Secaucus, New Jersey, in which Mr. Donovan was a senior executive.

"This inquiry centered around public corruption in Newark, New Jersey, which eventually resulted in the conviction of Hugh J. Addonizio, Mayor of Newark, New Jersey.

"Senator Kennedy contacted the Attorney General regarding this request and some modifications were made. This letterhead memorandum contains information in line with these modifications."

And then we had the January 7 Raymond J. Donovan one-sheet memorandum. That only referred basically to the Kantor matter. It does not refer to the other matters which you had in your possession at the time.

MR. OLSON: I am not sure that the witness knows precisely what the question is.

BY SENATOR HATCH:

Q Well, let me ask you this: There is not any doubt in your mind what the Committee requested in that letter from Senator Kennedy and I on December 31, 1980. We wanted all materials and yet all we got back was --

A Were there not other communications to Senator Hatch providing you with material? I would have to review everything --

Q There was not providing of material promptly at that time except for this January 7, 1981 letter and apparently Mr. Fielding claims that he had shown us the memorandum of January 5, which I believe we did see.

Now, January 7, I think where this is important, January 7 was the date we were scheduled to go ahead with the hearing and the only information we had was the Kantor information at that point.

MR. OLSON: I am still not sure exactly what the question is.

BY SENATOR HATCH:

Q I think the question is why didn't we get all the information that the FBI had in its possession in response to our December 31, 1980 letter and was there a decision made to withhold that information from the Committee?

A I know of no decision ever made to withhold that information, this information from the Committee.

Q Had you even provided it to the White House by then, let us say, January 7?

A I would have to go back and review files to see what we reviewed. What I suspect is that this information may have been reported in other communications by the transition team to the Committee. I am just not certain. We do try to be responsive when we have a request like this. We drew a letter and tried to respond.

Q Let me ask you, if the Committee requested, as we did in the December 31 letter -- didn't you consider the FBI obligated to produce any of these materials so we could inform ourselves as members of the confirming Committee or at least the Oversight Committee as to the suitability of the nominee?

A Do we feel an obligation to provide --

Q Yes, provide that to the Committee, that information?

A Through the appropriate channels, Senator Hatch.

Q Does that mean through the White House or does that mean directly to us?

A That means through the transition team, the White House and also --

Q In other words, you were still acting under the assumption at that point that your duty and your obligation was to provide these materials to the White House?

A That is correct.

Q But even then, as I understand it, did you provide any of these materials pertaining to Montoro, pertaining to Maselli tapes, pertaining to Jo-pel, or any of the other -- to the Genovese family or to the gambling or any of the other allegations that later were provided?

MR. OLSON: As of what date?

SENATOR HATCH: As of January 7, which was, as I understand it, if my memory serves me correctly, the date we were going to go ahead with the hearing but I called it off because we hadn't been provided the material that we thought we had to have in order to have the hearing.

THE WITNESS: I don't know which allegations had arisen then and those that had not and what was provided. I would have to see documents and I can comment on the documents.

BY SENATOR HATCH:

Q You are not sure what you had in your possession or what files had been checked or whether OCIS or ISIS or any other files had been fully checked at that point?

A Not -- my personal knowledge, I am not certain.

Q Who would know what had been done by that point?

A I understand Mr. Adamski is going to appear before you. He perhaps could --

Q So he would probably know that.

A Yes.

Q Was he directly in charge of the investigation at that point?

A That is right. He would be intimately --

Q So he would be right on top of all aspects of this investigation?

A He should have been.

Q And he would have been aware of this letter from Senator Kennedy and me?

A That is right.

Q Well, we got a chronology in June of this year that was provided to us by the Justice Department. Are you familiar with that?

A I would like to see it. Then I can --

Q Give that to him.

MR. OLSON: I think, Senator, we are aware of a chronology that was provided by the White House.

SENATOR HATCH: I thought it was provided by the Justice Department. It was provided by the White House?

MR. OLSON: I think it was.

BY SENATOR HATCH:

Q Are you aware of that then?

A I believe I have seen it.

Q Do you consider that to be accurate in a listing of the contacts that were made by the Committee?

A I haven't really studied it. I think we would have to ask --

Q You may want to look at it.

A I think we would have to ask Mr. Adamski about that, whether it is accurate.

Q In this Committee's letter of December 31, 1980, this Committee also asked that the FBI's background investigation "did not fully deal with all matters relating to the prior Department of Justice inquiries relating to Schiavone Construction or Mr. Donovan, that an investigation be initiated immediately and a report provided by January 7, 1981."

Isn't that correct, in our letter of December 31?

A It says that. There is a typographical error. It says January 7, '80.

Q So that is correct?

A Yes.

Q To your knowledge, did the Justice Department or the FBI have any objection to this request?

A Not to my knowledge.

Q But you were still acting under the assumption that your only obligation was to provide the materials to the transition team or to the -- to Mr. Fielding who would then provide them to us?

A To us, yes. It is not a matter of, Senator, not providing them to the Committee. It is the format and the manner in which they are provided.

Q It is the procedure you were acting under at that time?

A That is correct.

Q See, the problem I am having trouble with even though you were acting under the assumption that your procedure was to provide these materials to Mr. Fielding, or whoever on the transition team, and not to us, my personal belief is you didn't provide them to Mr. Fielding either except for a January 5 memorandum before the 7th.

A As to the interchange that took place and what was provided and to whom, I think Mr. Adamski can better answer those questions.

Q Now, the full field investigation of Mr. Donovan, the Labor Secretary-designate, was requested by Mr. Fielding, as I recall, on December 30, 1980.

Are you familiar with that?

A That is correct.

Q The investigation was both "favorable" and "complete" by January 5, 1981, seven days later, isn't that correct?

A Senator, you went quickly there. Could you repeat the quote?

Q Well, it was considered both favorable and complete by January 5, 1981.

A Yes.

Q Okay.

Now, I refer to a January 5, 1981, letter from Oliver B. Revell, Assistant Director, which we will mark as Exhibit No. 10, to Mr. Fielding.

"In accordance with a request received from you on December 30, 1980, an investigation has been conducted concerning Mr. Raymond James Donovan. Transmitted herewith is a summary memorandum containing the results of this investigation.

"The investigation involving Schiavone Construction Company, Secaucus, New Jersey, is an ongoing investigation and is not anticipated to be completed in the near future."

You are familiar with that?

A I am.

Q Do you know who dictated this letter? It has "MLD:icw." Do you know who that might be?

A May I see it, Senator Hatch?

And your question on this, MLD?

Q Yes. Do you know who dictated that letter?

A Can't recall the last name. First name is Mickey. Excuse me.

(Pause)

Michael Drake.

Q Drake?

A Yes.

Q D-r-a-k-e?

A That is correct, Senator.

Q What was his position? What was his function with the FBI?

A He is a Bureau supervisor working in the Special Inquiry Unit at the FBI headquarters.

Q Now, doesn't this letter state at the bottom in the note, "Investigation favorable and complete"?

A It does.

(Exhibit No. 10 was marked for identification.)

BY SENATOR HATCH:

ex10

Mullen
7/11/82
JA

1 - Mr. Schulte
1 - Mr. Drake

EXHIBIT NO. 10

January 5, 1981

~~FEDERAL GOVERNMENT~~

BY LIAISON

Hand carried to [illegible] 1-5-81 by [illegible]

[redacted]

Honorable Fred F. Fielding
Conflict of Interest Counsel
Office of the President-elect
1726 M Street, Northwest
Washington, D. C.

Dear Mr. Fielding:

In accordance with a request received from you on December 30, 1980, an investigation has been conducted concerning Mr. Raymond James Donovan. Transmitted herewith is a summary memorandum containing the results of this investigation.

The investigation involving Schiavone Construction Company, Secaucus, New Jersey, is an ongoing investigation and is not anticipated to be completed in the near future.

Sincerely yours,

Oliver B. Revell
Assistant Director

Enclosure

161-15[illegible]-27

NOT RECORDED
35 DEC 30 1981

MLD:icw (VI)
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NOTE: Mr. Donovan is presently employed by the Schiavone Construction Company, as Executive Vice President. Mr. Donovan is being considered for presidential appointment as Secretary of Labor. Investigation favorable and complete.

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MAIL ROOM

January 5, 1981

RAYMOND JAMES DONOVAN

THE INVESTIGATION OF MR. DONOVAN COVERED INQUIRIES IN THE UNITED STATES AS TO HIS CHARACTER, LOYALTY, AND GENERAL STANDING, BUT NO INQUIRIES WERE MADE AS TO THE SOURCES OF HIS INCOME.

Birth

Mr. Donovan was born on August ~~31, 1930, in Bayonne,~~ New Jersey.

Education

Mr. Donovan was graduated from St. Joseph's School, Holy Trinity, Alabama, in June, 1948, and continued at St. Joseph's at a junior college level until May, 1950, receiving no degree.

He attended Notre Dame Seminary, School of Theology, New Orleans, Louisiana, from September, 1950, to January, 1953, receiving no degree.

Employment

During the summer of 1950, Mr. Donovan was employed by the Ballentine Brewery (now defunct), Newark, New Jersey, as a brewery worker.

In 1953, Mr. Donovan was employed by the International Brotherhood of Electrical Workers, Newark, New Jersey. The exact dates and type of employment could not be verified as no records exist and the current whereabouts of former co-workers and supervisors are unknown.

From September, 1953, to September, 1958, Mr. Donovan was employed by the American Insurance Company, Newark, New Jersey (now known as Fireman's Fund Insurance Company, Parsippany, New Jersey), initially as an insurance salesman and finally as assistant bond department manager.

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RETURN TO ~~MR. DRAKE~~, ROOM 5158

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27

Raymond James Donovan

From September, 1958, to January, 1959, Mr. Donovan was employed by the Norton Insurance Agency (now known as Alfred J. Norton Insurance Company), Englewood, New Jersey, as bond department manager.

Since January, 1959, Mr. Donovan has been employed by the Schiavone Construction Company, Secaucus, New Jersey, initially as Vice President and presently Executive Vice President.

In addition to the aforementioned employments, Mr. Donovan is currently serving as a member of the Board of Directors, Shrine of St. Joseph, Sterling, New Jersey, and previously served as Chairman of the Board, Honesty House, a privately endowed center for alcoholics and addicts, located in Sterling, New Jersey.

Family Status

Mr. Donovan is married to the former Catherine Sblendorio, and they and their son, Keith Donovan reside at 54 Merrywood Lane, Short Hills, New Jersey.

Mr. Donovan has indicated his wife is a United States citizen.

Mr. Donovan's parents, David A. and Eleanor Donovan, are deceased. In addition to his wife, Mr. Donovan has listed the following living close relatives:

Son	Kenneth Donovan Fairfield, Connecticut
Daughter	Mary Ellen Donovan Rosemont, Pennsylvania
Brother	David Donovan Bayonne, New Jersey
Sister	Eileen Connair Red Bank, New Jersey
Brother	Robert Donovan Red Bank, New Jersey
Sister	Claire Donovan Cranford, New Jersey

Raymond James Donovan

Brother	William Donovan Hayward, California
Sister	Joan O'Donnel Cranford, New Jersey
Brother	John Donovan Somerville, New Jersey
Sister	Maureen Donovan Cranford, New Jersey
Sister	Helen Moran Cranford, New Jersey
Brother	James Donovan Maplewood, New Jersey
Brother	Richard Donovan Elizabeth, New Jersey

Based on available information, Mr. Donovan has no close relatives residing in communist-controlled countries.

Interviews

Forty-nine persons, consisting of current and former supervisors and co-workers, present neighbors, references, professional associates, and social acquaintances, were interviewed. They advised Mr. Donovan is a loyal American whose character, reputation, and associates are above reproach. He was described as dynamic, conscientious, capable, responsible, sober, and hardworking. It was stated by several of Mr. Donovan's associates that he has expertise in the labor and management fields and has earned the respect of his peers. One associate described Mr. Donovan as "an intelligent, compassionate, and humane individual who can effectively represent all the workers of America." Another associate described Mr. Donovan as an individual who has "a unique talent in analyzing and solving problems, yet relates to people with great feelings toward their problems." All highly recommended him for a position of trust and responsibility.

Among those interviewed are the following:

Thomas Holms, President, Ingersoll Rand Corporation, Woodcliff, New Jersey

John J. Pierson, President, Local 825, International Union of Operating Engineers, Newark, New Jersey

Reverend William S. Swan, Dean of Academics, Notre Dame Seminary, School of Theology, New Orleans, Louisiana

William C. Finneran, Executive Director, General Contractors Association of New York, New York

Frank Drozak, President, Seafarers International Union, Brooklyn, New York

Renato Beghe, Attorney, Law Firm of Carter, Ledyard and Milburn, New York, New York

James Kirk, Vice President, American Federation of Labor and Congress of Industrial Organizations, State of New Jersey, Red Bank, New Jersey

Arthur trautmann, Executive Director, Association of General Contractors of New Jersey, Edison, New Jersey.

Credit and Arrest Checks

Information has been received from appropriate credit reporting agencies indicating their files contain either no record or no additional pertinent information concerning Mr. Donovan.

Information has been received from appropriate law enforcement agencies indicating their files contain no record concerning Mr. Donovan or his close relatives except the following:

Raymond James Donovan

Records of the Hayward, California Police Department indicate Mr. Donovan's brother, William Francis Donovan, was arrested on May 14, 1977, and March 17, 1980, for driving while intoxicated. The records indicate a $195.00 fine was paid for the 1977 charge and a sentence of two days' incarceration and twelve months' probation was imposed for the 1980 charge.

Agency Checks

Information has been received from the following governmental agencies indicating their files contain either no record or no additional pertinent information concerning Mr. Donovan:

Division of Personnel Investigations,
Office of Personnel Management;
Central Intelligence Agency; Defense
Industrial Security Clearance Office;
and the United States Secret Service.

The central files of the FBI, including the files of the Identification Division, were checked by name only, and contain no additional pertinent information concerning Mr. Donovan. However, records indicate the Schiavone Construction Company, Secaucus, New Jersey, is partially owned by Mr. Donovan and is the subject of current FBI investigation under Federal statutes of Racketeer Influenced and Corrupt Organization and Labor Management Relations Act, 1947. Investigation against the Schiavone Construction Company is based upon allegations of a union president who has misused the pension and welfare fund and received extensive kickbacks for approving loans in awarding "sweetheart" contracts. To date, there is no specific information to indicate any criminal involvement of Mr. Donovan.

Q I will show you what we will mark as Exhibit 11, and it happens to be the January 7, 1981, document by Lee Colwell, the Acting Director, regarding Raymond J. Donovan.

It says, "Attached herewith is a letterhead memorandum and letter in response to a letter received from Senators Orrin G. Hatch and Edward M. Kennedy, dated December 31, 1980, along with a copy of their letter. Please forward this information to the Committee on Labor and Human Resources."

Also attached is a copy of a letter to me from Director Webster, dated January 7th, and the memorandum dated January 7, 1981, on Raymond J. Donovan.

Are you familiar with that?

MR. OLSON: Would it be convenient to take a break at this point?

SENATOR HATCH: We will finish with this and then take a break.

BY SENATOR HATCH:

Q Are you familiar with those documents?

A Yes, I am.

Q Your initials are on that first document, is that correct?

A First? No.

Q Are your initials on any of those documents?

A No.

(Exhibit No. 11 was marked for identification.)

Ex. 11

1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

Mullen 7/11/82

EXHIBIT NO. 11

January 7, 1981

Assistant Attorney General
Office of Legislative Affairs

Director, FBI
By Lee Colwell, Acting Director

FEDERAL GOVERNMENT

RAYMOND J. DONOVAN

Attached herewith is a letterhead memorandum and letter in response to a letter received from Senators Orrin G. Hatch and Edward M. Kennedy dated December 31, 1980, along with a copy of their letter. Please forward this information to the Committee on Labor and Human Resources.

Enclosures (3)

PA:rap
(8) (VI)

3 ENCLOSURE

hand delivered to DAAG John Keeney, Crim Division per instructions of ADAG Bob Kench 1/7/80 5:05 pm. RJ

APPROVED: Adm. Serv. ____ Legal Coun. ____
Crim. Inv. ____
Director ____
Exec AD-Adm. ____
Exec AD-Inv. ____
Exec AD-LES ____

Exec AD Inv. ____
Exec AD Adm. ____
Exec AD LES ____
Asst. Dir.:
Adm. Servs. ____
Crim. Inv. ____
Ident. ____
Intell. ____
Laboratory ____
Legal Coun. ____
Plan. & Insp. ____
Rec. Mgnt. ____
Tech. Servs. ____
Training ____
Public Affs. Off. ____
Telephone Rm. ____
Director's Sec'y ____

MAIL ROOM

161-15093-32

NOT RECORDED
15 DEC 11 [illegible]

1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

January 7, 1981

Response to Memo, OLA, DOJ dated 1/7/81

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D. C.

Dear Mr. Chairman:

The enclosed letterhead memorandum is furnished in response to a letter submitted by you and Senator Kennedy on December 3, 1980. You expressed concern regarding investigations in 1969 and 1970 about the Schiavone Construction Company of Secaucus, New Jersey, in which Mr. Donovan was a senior executive.

This inquiry centered around public corruption in Newark, New Jersey, which eventually resulted in the conviction of Hugh J. Addonizio, Mayor of Newark, New Jersey.

Senator Kennedy contacted the Attorney General regarding this request and some modifications were made. The letterhead memorandum contains information in line with these modifications.

Sincerely yours,

William H. Webster
Director

By Lee Colwell, Acting Director

hand delivered to DAAG Joe Kenney per instructions ADAG Bob Keuch 1/7/81 5:05 PM

Enc.

1 - Assistant Attorney General
Office of Legislative Affairs

NOTE: Prepared in response to request of Senate Labor and Human Resources Committee for information concerning Donovan and company in which he is partner. Enclosure to letter to Senator Hatch which is being forwarded to Office of Legislative Affairs in Department. Copy also forwarded to Office of President-elect.

A:rap (VI)
(9)

Exec AD Inv. ___
Exec AD Adm. ___
Exec AD LES ___
Asst. Dir.:
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MAIL ROOM ☐

JPK

121-15173-32

APPROVED:
Director ___
Adm. Serv. ___
Crim. Inv. ___
Legal Coun. ___
Laboratory ___

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

January 7, 1981

RAYMOND J. DONOVAN

The central files of the FBI, including the files of the Identification Division, were checked by name only, and contain no information concerning Mr. Donovan. However, records indicate the Schiavone Construction Company, Secaucus, New Jersey, is partially owned by Mr. Donovan.

The files of the Newark Division of the FBI were reviewed concerning a case entitled "Hugh J. Addonizio et al; Anti-Racketeering-Hobbs Act; Obstruction of Justice" which involved an FBI investigation in 1969 and 1970 into alleged payoffs made to Addonizio, then mayor of Newark, New Jersey, and other members of the Newark city administration. The review of these files did not locate any reference to Raymond J. Donovan or the Schiavone Construction Company.

A review of the indices of the Newark Division of the FBI disclosed the United States Attorney's Office at Newark, New Jersey, requested investigation in 1969, into the Kantor Supply Company, Newark, for possible Hobbs Act violations in connection with the Addonizio investigation. The request indicated that Irving Kantor, a principal of the Kantor Supply Company, notified the United States Attorney's Office that he set up a fictitious company under the name Kantor Supply Company to supply fictitious invoices for the purpose of "washing" money. The file indicated Mr. Kantor was interviewed by Agents of the Internal Revenue Service at which time he furnished to them the names of the companies in New Jersey who dealt with the Kantor Supply Company. These names were furnished to the United States Attorney's Office at Newark by the Internal Revenue Service. The Schiavone Construction Company was one of the names furnished to the United States Attorney's Office. The file indicates the United States Attorney's Office determined the Schiavone Construction Company was engaged in a construction project on the New Jersey Turnpike within the Newark city limits during the period covered by the Addonizio indictment and paid the Kantor Supply Company approximately $13,000 to dump uncleaned excavation on property owned by Kantor. The Schiavone Construction Company was not named in the indictment and was considered by the United States Attorney's Office only to be a company engaged in public projects within the period covered by the indictment. The investigation of the Kantor Supply Company was closed by the Newark Division of the FBI April of 1970 with no active investigation having been conducted by the FBI. The Newark FBI file does not indicate what, if any, further action was taken in the matter by the United States Attorney's Office.

Q Why don't we take a break, a short break for five minutes, and then we will see you back here about 10 of.

(Short recess.)

SENATOR HATCH: Let the record show at the beginning of the record who has been in attendance in this informal inquiry. Why don't we start -- let me just point to each of you and you identify each of yourselves, who you are with, and that will be good enough.

Why don't you go?

THE WITNESS: My name?

SENATOR HATCH: Yes. Just give your name and --

THE WITNESS: Francis M. Mullen. Position?

SENATOR HATCH: Sure.

THE WITNESS: Executive Assistant Director, FBI, and Acting Administrator, Drug Enforcement Administration.

MR. OLSON: Theodore Olson, Assistant Attorney General, Office of Legal Counsel.

MR. McCONNELL: Robert McConnell, Assistant Attorney General, Office of Legislative Affairs.

MR. O'BRIEN: Kevin O'Brien, Office of Legislative Affairs.

MR. MINTZ: John A. Mintz, General Counsel, FBI.

SENATOR HATCH: Could we go -- over here.

MR. SMITH: Tim Smith, Senator Stafford.

SENATOR HATCH: Okay.

MR. GORDON: Harold C. Gordon, Senator East.

MS. DONOVAN: Emily Donovan, Senator Humphrey.

MR. MARSHALL: Bob Marshall, Senator Denton.

MR. LISKER: Joel Lisker, Senator Denton.

MR. WOLFE: Jim Wolfe, Senator Quayle.

MR. NAVARRO: Bruce Navarro, Senator Nickles.

MR. PARRY: Tom Parry, Senator Hatch.

MS. EGBERT: Carol Egbert, Senator Hatch.

MR. SHERIDAN: Walter Sheridan, Senator Kennedy.

MR. FLANNERY: John Flannery, Senator Hatch.

SENATOR HATCH: And we also have Burt Wides from Senator Kennedy's office.

Was there anybody else here?

Barbara Mulkey of the Labor Committee staff.

Mike Force was here as well, Senator Kennedy's office.

Okay. Let us make sure we identify each of us each day we do this. That way we can keep track of who is here.

Keep in mind I expect these proceedings to be kept confidential until we decide -- until Senator Kennedy and I decide to -- what we are going to do, whether we are going to issue a report or what we are going to do with regard to this and/or make something public. Otherwise, I would ask staff to keep this completely confidential.

BY SENATOR HATCH:

Q Now, isn't the ordinary length of time for an applicant investigation of a Cabinet nominee really only seven days? That is normally the length of time you would spend or less?

A I believe the time is 14 days, Senator.

Q Did the length of time for such an applicant investigation change from 1980 to 1981, or was it basically 14 days?

A To my knowledge, it did not change.

Q Okay.

In the summary memorandum, dated January 7, 1981, is there any mention, direct or indirect, of the HOFEX investigation?

A This is the memorandum which you just furnished to me and which we only have one?

Q That is right.

In fact, let me ask you is there any mention, direct or indirect, of the HOFEX investigation, the Gross investigation, the Montoro allegations or of the Joe Pell-Maselli allegations or investigations?

A I do not see any reference to them.

Q In other words, there is no reference.

Now, if there was an ongoing investigation, shouldn't those ongoing investigations have been included in the applicant investigation?

A To the degree that they would have pertained to the applicant, there perhaps may have been a mention.

Q I take it, if you had known about these personally, you would have included them?

A Had I personally known about these?

Q Right.

A To the degree that they pertain to the nominee, they probably would have been included. I think, Senator Hatch, we must keep in mind that some of these allegations surfaced after the date of this memorandum.

Q I understand. But, see, the real problem we have as a Committee is that the FBI knew about these allegations -- somebody in the FBI knew about these allegations at the time we were asking for them.

A And which ones, Senator?

Q All of them. In other words, they were allegations that were in file in the FBI that really should have surfaced during this investigation, and that has been one of the problems here.

A Okay. If we could just go back to the allegations that you believe might have been in file and should have surfaced in the original, and which were those?

Q Well, we are talking about in particular the HOFEX investigation, the Gross investigation, the Montoro allegations and investigation, the Jo-pel, Masselli investigation and allegations. All of those were in existence at the time we made these -- this request for information but, apparently, you didn't realize their connection with the particular applicant.

A That is correct.

Q Okay.

Now, are you aware --

A Excuse me, Senator. If I could, one more interruption.

With regard to the Montuoro, I am not certain as to when that surfaced. That may have come up later on but I am just not certain.

Q I understand. But the important thing is had you known about them, you would have said put those into the materials that you submitted to Mr. Fielding, is that right? Is that right?

A I would have to know the context in which they relate to the applicant.

Q Had you known that these allegations pertained to the Donovan investigation, the Donovan nomination --

A If they pertained, I would have.

Q You would have suggested they be given to Mr. Fielding, is that correct, or to whoever it was at the White House or in the transition team who was handling this matter?

A I perhaps would have suggested that, yes.

Q Now, in your guidelines, the FBI guidelines, and we will mark these as Exhibit 12.

(Exhibit No. 12 was marked for identification.)

BY SENATOR HATCH:

Q Under Part 2, Section 17, entitled "Applicant and Employee Investigations Conducted for other Government Agencies--General Instructions." 17-6.12, association with questionable individuals:

"1. Ascertain degree of association and awareness on part of person under investigation of activities of questionable individual.

"2. Extent of influence questionable individual exercises over applicant.

"3. If questionable individual previously investigated under Executive Order 9835, Executive Order 10450, or Executive Order 10422, report should so state. Include title of position, agency where employed, and year investigation conducted. Also report any pertinent data received subsequent to above investigation.

"4. Search names of questionable associates through office indices."

You are aware of that and those guidelines at the FBI?

A May I see them?

Q Sure.

Could we have those other exhibits so we could use them? If you will return those, then we can make sure we get them in the right piles.

Are you aware of those guidelines?

A I can't say I have read them recently but I am aware of them.

Q But you have read them. You are aware of them and you have tried to abide by them.

A That is correct, Senator.

Q And it is expected for FBI agents and those in charge of these types of investigations to abide by them. Is that correct?

A There are specific guidelines for special inquiries, a separate section, as you see pointed out here. The other guidelines which you referred to are those conducted for other Government agencies. I think we are talking about different --

Q In other words, you have stronger guidelines for other Government agencies than you do for nominees of the Executive branch?

A I don't know if they are stronger, Senator, but different guidelines.

Q But, frankly, the guidelines are read to you, had you known about these matters, you would have complied with those guidelines anyway, wouldn't you?

A I am not certain I understand.

Q Well, the guidelines that I read to you, you didn't find any defect in those guidelines with regard to an investigation, say, of Mr. Donovan. Had you known about these allegations, Joe Peil, Maselli, HOFEX, etc., you would have felt obligated to report those to the White House or at least to the transition team?

A If they pertained to the applicant, we certainly would have.

Q O.K. See, for instance, the Executive Order that we have been referring to -- or that you have been referring to, 10450, it says: "Depending on the relation of the Government employee to the national security: Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy; any deliberate misrepresentations, falsifications, or omissions of material facts; any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, sexual perversion, or financial irresponsibility; any adjudication of" -- etc., etc. The guidelines there are pretty strong also.

A Certainly are.

Q O.K. Now are you aware of the Vito Genovese family?

A I am aware of the term Vito Genovese family.

Q Is that an organized crime family?

A It is.

Q Are they what you would call La Cosa Nostra?

A That is correct.

Q What is a soldier in the La Cosa Nostra?

A Soldier would be lowest ranking La Cosa Nostra member.

Q To your knowledge, was Pelligrino Masselli a soldier in the Genovese family -- or was he alleged to be a soldier?

A Alleged to be a soldier.

Q What was the basis of your knowledge in January 1981 that he was a soldier?

A There is a memorandum, and I believe the term is either a self-admitted or alleged soldier.

Q In this January 12, 1981 memorandum from Monroe to you, which was dictated by Mr. Adamski, as I understand it, that was the full extent of your knowledge about Masselli, as of January 12, 1981. Is that correct?

A As I recall it now, it is possible that his name had appeared before that.

Q So you may have --

A And I didn't recall it at that time.

Q But that did -- in the least, that did refresh your recollection or at least bring it to your attention, that Masselli was a self-admitted soldier in the Genovese family?

A Yes, and it could have been my first indication.

Q Were you aware that Al Magrini, M-a-g-r-i-n-i, Schiavone Construction Company vice president, was a close contact of Masselli's?

A I was not aware.

Q Have you become aware since?

A I have seen document since saying that, yes.

Q Now we will -- let me give you a copy of this.

A He is allegedly a close associate, I believe.

Q Right. We will place the memorandum dated January 12, 1981, from Mr. Monroe to Mr. Mullen in the record at this point as Exhibit 13.

(Exhibit No. 13 was marked for identification.)

BY SENATOR HATCH:

Q As I understand it, this is your set of initials at the top of the memorandum. Is that correct?

A Yes, Senator Hatch.

Q And that is Mr. Monroe's initial?

A C. M.

Q And what is the initial -- is this Mr. Schulte's down below "recommendation"?

A It appears to be a JPS, yes.

Q And then FM, who is that?

A That is me. I initialed it twice.

Memorandum

EXHIBIT NO. 13

#13

Mullen 7/11/82

To : Mr. Moller

Date 1-12-81

From : C.P. Monroe

Subject : RAYMOND J. DONOVAN
SPECIAL INQUIRY

3

PURPOSE: To advise of allegations of possible LCN affiliations of Mr. Donovan, who is being considered as Secretary of Labor in the Reagan Administration.

RECOMMENDATION: None. For information.

DETAILS: The New York Division advised by teletype dated 1-10-81 (attached) that information has been developed as of 1-8-81 indicating Raymond J. Donovan, who is being considered for the position of Secretary of Labor in the Reagan Administration, and who is currently involved in Senate Confirmation Hearings, may possibly have LCN affiliations.

Two independent sources of the New York Division have advised that the Schiavone Construction Company, in which Mr. Donovan is an Executive Vice President, is "mobbed up." One source indicates the upper management of the Schiavone Construction Company is closely aligned with the Vito Genovese Family of the LCN through Schiavone Vice President Albert Magrini and its contacts with Jopel Construction headed by William Masselli who is an alleged self-admitted "solider" in the Genovese family. This New York source alleges Mr. Donovan is acquainted with LCN members through Magrini and Masselli on a business and social basis and has in fact travelled from New York to Miami for the 1979 Super Bowl with Masselli and other LCN figures in the construction business.

ENCLOSURE

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Schulte
1 - Mr. Adamski

:rap (VI)
(6)

7 JAN 25 1981

Another New York source who is a former employee of the Schiavone Construction Company indicates that Mr. Donovan is an alcoholic and a heavy gambler making bets in the $5,000 to $6,000 a bet range.

None of the New York sources was able to provide any information that shows any specific criminal misconduct on the part of Mr. Donovan.

A search of the central files of the FBI, the indices of the New York Office, and the Organized Crime Information System disclosed one pertinent reference to Mr. Donovan which is a Title III overhear between William Masselli and his son Nat Masselli, which makes reference to the fact that Mr. Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function.

The above information was furnished to Fred F. Fielding, Conflict of Interest Counsel, Office of the President-elect, at approximately 2:45 p.m., 1-11-81, by Anthony Adamski, Jr., Special Inquriy Unit, in general terms to protect the identity of the New York sources. Mr. Fielding was asked if he wished Mr. Donovan interviewed concerning these allegations and Mr. Fielding stated he did not wish Mr. Donovan interviewed by Bureau Agents at this time because it would serve no purpose since there were no specific allegations of criminal misconduct.

Investigation at New York, Newark, and Miami continuing to resolve the allegations of Mr. Donovan's possible LCN affiliations.

Q And CM is Charlie Monroe?

A That is right.

Q Now is this the complete memorandum or has there been a block-out here, something pasted together?

A Something pasted together?

Q Well, I notice that it looks like there is a big blank space underneath "Recommendations." Is this the actual memorandum or do you have any objection to showing us the original memorandum tomorrow?

A I have no objection to showing you --

Q O.K., if you will bring the original, that will answer my question.

A I believe, though, Senator, this is the complete memorandum, because of the way the initials appear.

Q O.K. Bring the original with you.

A If I can locate it.

Q Now this memorandum says that Al Magrini, Schiavone Construction Company vice president, was familiar with Mr. Maselli.

A Yes.

Q And was not the basis of the information relating to Magrini's associations overheard on the so-called Maselli tapes or overhear wiretap?

A I am sorry, wasn't the basis for the relationship between --

Q Magrini and Masselli -- did that not come from the overhear?

A Senator, I am just not certain.

Q As I understand it, those tapes that overheard the conversation, the Masselli conversations, were overhears -- were Title III overhears from January 1979 to July 1979. Is that correct?

A That is correct.

Q Now as I understand it, those references are kept on a computer tape. Is that correct?

A Not in all cases.

Q Not in all cases?

A Yes.

Q Would you describe that for us, to the best of your ability?

A Describe?

Q Exactly what the Masselli tapes are, what the overhear consisted of, and how they are stored, etc.?

A The original tapes are retained and it is normally up to the case agent to index those references on the tapes and I am advised, and I have talked to the case agent since the testimony, that he kept fairly extensive records in the case indices. All overhears --

Q Who was that?

A I do not recall his name but I could obtain that.

Q All right.

A All overhears, that is, individuals who are overheard on the tapes, an electronic surveillance card is prepared and retained. So we have the -- really two indices there, the overhears and references. Not all references may be recorded. There may be conversations -- you have minimization procedures whereby you are restricted from retaining certain material, even listening to certain conversations.

Q Now are you speaking in general or are you speaking specifically about the Maselli tapes?

A In general but it would apply to the Maselli tapes.

Q Now on June 14, as I recall our personal conversation, you indicated they did it differently on the Maselli tapes -- on June 14?

MR. OLSON: This year?

SENATOR HATCH: This year.

THE WITNESS: Our meeting in Senator Thurmond's office?

BY SENATOR HATCH:

Q Right.

A Differently to the degree that the case agent said that he kept a lot more of the names than he normally would.

Q I see.

Now, this memo to you states that there was a search made of the organized crime information system, OCIS; is that correct?

A It does.

Q Now OCIS is the computer information system that we have described before. Is that correct?

A That is correct, Senator.

Q When was that first established by the FBI?

A I am not certain of the exact date.

Q Who recommended that that be established?

A I can give a fairly accurate response to that. When I arrived at the FBI headquarters from New Orleans in October of 1977, the Organized Crime Section had prepared documents recommending that this system be established and it was probably -- and I am not giving you an exact date, sometime in early 1978, that it was approved and moved forward.

Q Are there terminals which access the OCIS?

A There are terminals.

Q Where are they located?

A I believe the plan was to have terminals in 26 field offices, give or take one or two, depending on the degree of organized crime activity in a particular field office.

Q And I take it there are procedures to preserve the security of these terminals and of the system?

A Yes, there are.

Q Now, I was going to ask what procedures are they but let me skip over that question.

Who authorized the search of OCIS be made?

A In this case?

Q Yes.

A I do not know.

Q Do you know when the request for the search of the OCIS was made?

A When the request was made?

Q Yes.

A No, I do not.

Q Is there any record of the request to search the OCIS?

A None that I am aware of.

Q So you don't have the search request and you don't know where it would exist if one does exist?

A That is right.

Q And you don't know what any request said?

A No, sir, I do not.

Q Do you know who would know?

A Mr. Adamski prepared the memorandum. He may know.

Q Go to page 2 of this memorandum.

A Yes, sir.

Q I am a little bit concerned about why in the next to last paragraph it says: "The above information was furnished to Fred F. Fielding, Conflict of Interest Counsel, Office of the President-elect, at approximately 2:45 p.m., January 11, 1981, by Anthony Adamski, Jr., Special Inquiry Unit, in general terms to protect the identity of the New York forces."

Why does Adamski identify himself in the third person, any particular reason or is that just a common practice?

A I can only assume -- it is done in a different manner. There is really no set procedure that you refer to yourself in the third person but the memo is from Monroe to me and Adamski may have assumed as he dictated that he referred to himself in the third person because it really wasn't his memorandum. It was Monroe's memorandum being prepared by him.

Q O.K. Director Webster testified in March 1979 before the House Judiciary Subcommittee on Civil and Constitutional Rights that the FBI had an "organized crime information system which we hereinafter refer to as OCIS which I think you representatives may be aware of where we are beginning to put all of our organized crime information on computer which will permit terminal analysis and input in each of our 59 field offices."

Now that is at the hearing minutes at page 126.

We found that to be very interesting. You are saying it is 26 field offices.

A That is my understanding of it. May I have the date of that testimony again, Senator Hatch?

Q March 1979; March 27, 1979, to be more specific.

A I normally defer to Director Webster on most of these things but I still think it is probably a limited number of field offices.

Q You heard -- have you yourself heard any portions of the Masselli tapes?

A I have not.

Q Have you heard or read any portions of the Masselli tapes? As I understand it, these tapes are transcribed.

A I have not, other than that referred to in a New York teletype the date of which I cannot recall. I have not reviewed the tapes personally.

Q Have you been given any briefs, any summaries, any oral or any written information pertaining to the Masselli tapes or directly off the Masselli tapes?

A I am aware of some information contained in the Masselli tapes.

Q How are you aware of that? Is that by word of mouth, memoranda or how?

A I would have to reflect on that one, as to how I became aware. Perhaps both, memorandum and briefings.

Q Can you give us the dates when you have heard any of these matters pertaining to the Masselli tapes?

A I don't relate Masselli to the information that I have. The investigation in which Masselli was involved was carried under a code name, TUMCON, and prior to even the election of President Reagan, there were briefings or discussions about TUMCON. But I just, because of the passage of time, cannot recall exactly what I was told during that period.

Q By TUMCON what do you mean?

A That is the code name for the investigation and I may mispronounce the name of the company, but Tuminaro Construction Company.

Q That is T-O-M-C-O-N?

A T-U-M-C-O-N.

Q T-U-M-C-O-N?

A Yes, sir.

Q You see, one of the problems we have is there are all kinds of media articles about the wiretaps and the Maselli tapes and about what happened. I refer particularly to a couple of articles by Howard Blum of The New York Times, one was dated February 14, 1980 and one March 22, 1980 as well.

Let me ask you a couple of questions for Senator Denton.

Are the Title III overhear names indexed by the case agent placed in the computer or are the references kept on individual index cards?

A Depending on the availability of the computer. I believe in the Masselli case they were on an ICIS computer. Now, I am not certain of that answer but there may be -- for example, a field office does not have the computer terminal and it would be on index cards. So it could be either way.

Q But a search of names which might be described as Title III product by the case agent usually requires a manual search?

A Depending on whether it was available on computer or index cards.

Q Now with regard to the Masselli tapes, have you come across any portion of those tapes mentioning Mr. Donovan or Schiavone or any of Schiavone's employees?

A Have I come across them?

Q Yes. Are you aware of them?

A The only one which I am aware was the one pertaining to a possible trip to a social function.

Q Now, as I understand it, six have been identified in the Special Prosecutor's report, six references.

A I have not seen the Special Prosecutor's report.

Q You have not read that?

A I have not, Senator.

Q Is it your sworn testimony that the information regarding Schiavone's organized crime ties or alleged organized crime ties was first developed in New York as of January 8, 1981?

MR. OLSON: Which alleged ties are you referring to?

SENATOR HATCH: Organized crime, alleged ties with organized crime.

THE WITNESS: It is my sworn testimony. I want to be sure I understand the question clearly.

BY SENATOR HATCH:

Q Here is what it says. You read this memorandum. It says, "The New York Division advised by teletype dated 1-10-81 (attached) that information has been developed as of 1-8-81 indicating Raymond J. Donovan, who is being considered for the position as Secretary of Labor in the Reagan Administration," et cetera.

Now, is that when it was first developed, on January 8, 1981?

MR. OLSON: Are you asking for his personal knowledge?

SENATOR HATCH: Yes, if he knows. Of course.

BY SENATOR HATCH:

Q Or let me make it clearer,

Does as of January 8, 1981, mean before and by January 8, 1981?

A I personally would not have been aware of it until I either saw this memorandum, and I do not recall a personal conversation of this that, gee, we have this information that has come up. But one could have occurred and I may not be recalling it.

But as far as organized crime connections and the applicant, my recollection, as I recall it now, this would be my initial knowledge of it.

Q Who developed this information, this January --

information developed by January 8, 1981? Do you know who developed it?

A The identity of the agent?

Q Yes, how it was developed. If you feel you can give us that information.

A I do not know.

Q Do you know how it was developed?

A I do not know, Senator.

Q In this article by Howard Blum, it says, "Kenneth Walton, the FBI agent in charge of the Bronx inquiry, would not comment on the attorney's comment, but one Federal agent said the agents played a tape to a girl friend of a Bronx politician on which she was mentioned. They did no more and no less."

Was Walton, to your knowledge, the agent in charge at that point?

MR. OLSON: May we have the date of the article?

SENATOR HATCH: That is dated March 22, 1980. That is referred to in the Special Prosecutor's report.

THE WITNESS: And the question is was Walton in charge?

BY SENATOR HATCH:

Q Was he in charge at the time?

A I don't think Walton has ever been in charge. I think he is a deputy in the New York office.

Q I take it that the information was developed from an informant, the information mentioned in this memorandum, an informant or informants?

A That appears to be the case, yes.

Q Did the informant, if you know, did the informant initiate the contact?

A I don't know, Senator.

Q Do you know who was advised of this information on the 8th of January, which was a Thursday? Was it Kenneth Walton, anybody in Washington, D. C.? Was it Colwell, yourself, Monroe, Schulte, Adamski? Do you know who was advised?

A I do not.

Q Adamski probably would know that?

A He may have the answer.

Q Okay.

Are there any memoranda or correspondence regarding the communication from the informant or informants?

A I would suspect --

Q Who gave this information.

MR. OLSON: The information from the New York office to headquarters --

SENATOR HATCH: In this memorandum.

THE WITNESS: I would suspect if it was an informant, there would be an informant contact form.

BY SENATOR HATCH:

Q When I refer to the memorandum, I am talking about the memorandum, dated January 12, 1981, which is Exhibit No. 13.

(Exhibit No. 13 was marked for identification.)

THE WITNESS: And your question again, Senator Hatch?

BY SENATOR HATCH:

Q Are there any memoranda or correspondence regarding the communication by the informant or informants, or is this the sole memorandum?

MR. OLSON: I want to make sure we clarify that because there was a great deal of correspondence or memoranda after it referring to this subject.

You are referring in your question to the transmittal of that information to New York --

SENATOR HATCH: That made up this memorandum listed as Exhibit 13.

THE WITNESS: It says in here advised by teletype, advised by teletype.

BY SENATOR HATCH:

Q Now, could you bring for my review the teletype which was attached to this tomorrow, if you can, to this memorandum listed as Exhibit No. 13, dated January 12, 1981? Could you bring that with you?

A If I can, I will bring that. I don't know of any reason right now --

Q Was there any conversation on January 8, 1981, or afterwards concerning how this information would be conveyed to President Reagan's transition team or to the Committee and, if so, who said what and when?

A I don't recall any such conversation.

Q Do you recall -- for all I know, you may have been a supervisor who just barely looked at these memoranda because you had a lot of work to do besides worrying about the Donovan matter and may have relied upon people who worked for you in this regard.

But do you recall anything about what your concerns were once you knew this information with regard to informing the Committee about the problems mentioned in the particular memorandum?

A I do not recall what concerns I had, if any, but, as I have indicated earlier, we did have the established procedure for advising the Committee or the transition team, and we would assume that any further transmittal would be handled by that team.

Q Is there any memoranda, correspondence, conversation, or anything else pertaining to these materials that are showing in this memorandum in addition to this memorandum listed as Exhibit 13?

MR. OLSON: Again you are referring to -- not referring to communications subsequently to the Committee or testimony --

SENATOR HATCH: I am referring to communications -- interoffice communications concerning what they were going to do with this information.

THE WITNESS: Pertaining to what we were going to do with it?

BY SENATOR HATCH:

Q Yes.

A Not that I am aware of.

Q Did you read this very carefully when it came to you or did you read it at all?

A I read it or I wouldn't have initialed it, Senator Hatch. But did I take it up and study it? It is just hard to say how carefully or to what degree --

Q Are you saying you may not have realized the full significance of this memorandum at the time even though you did initiate --

MR. OLSON: That is a somewhat ambigious question, Senator.

SENATOR HATCH: What I am saying -- let me see if I can rephrase it.

THE WITNESS: I think what I would have looked to, Senator --

MR. OLSON: Let the Senator ask the question.

BY SENATOR HATCH:

Q Let me ask you this question.

This memorandum, when it came to us, we felt was very significant. But during the course of the Donovan investigation you had had a January 5th memorandum which you gave to Mr. Fielding which he claims he showed to Senator Kennedy and me in a -- in our offices. And that January 5, 1981, memorandum indicated that Mr. Donovan was clean as a hound's tooth, so to speak. In other words, they had talked to a number of witnesses and had concluded that he was all right for this nomination.

Then, all of a sudden, we have this memorandum of January 12, 1981, which is quite stark in contrast.

Now, did you realize the difference between the January 5th and the January 12th memorandums or the materials -- the difference between the materials given to you in the form of the January 5th memorandum and the materials given to you that are embodied in the form of the January 12th memorandum? Did you consider that significant?

A I recognized the difference and would have considered it significant and I would have looked perhaps to two things, and that was that the information was disseminated and that it was being pursued. These would have been my concerns. I would not have said to myself stop everything else, let's all -- we considered this very important, of course, Cabinet nominee, but my concerns would have been were those responsible within the FBI performing their duties, disseminating the information and pursuing it, and this memo indicates they were.

Q As you know, the Committee didn't have any access to this memorandum until actually 1982. That is correct, isn't it?

A That is correct.

Q Let us stop at that for today. And I think it is fair to say that has been one of the big problems that we have had since we look upon this memorandum as an extremely important memorandum, that had we had it as of January 12th, the date of our hearing, we would have asked some very tough questions, and Mr. Donovan could either have cleared them up and resolve them at that time or not. I think he would have resolved them. My personal feeling is he would have resolved them.

And that has been a lot of the concern that the Committee has had. But we will pursue that tomorrow.

SENATOR HATCH: We appreciate your cooperation in volunteering to be here and, of course, the cooperation of the FBI and the Justice Department. And, as a matter of fact, speaking for the Committee, I am very grateful to you.

Our goal here is to get to the bottom of this and put this whole matter to bed. You are one of the key people who may be able to do it.

I don't know that we can finish with our discussion tomorrow but I will do my best to try to finish tomorrow. But it looks to me like we will take one more two-hour day after that. It may be that if I can get the time together we can go for more than two hours. But let's see if we can. But let us start tomorrow right at 7:30.

MR. OLSON: Senator, if it turns out it is possible to go more than two hours tomorrow, how long would you anticipate so we can make appropriate plans?

SENATOR HATCH: I don't even know what my schedule is. I have no idea. He will call you.

MR. OLSON: Thank you.

And it is my understanding that we will have a transcript this afternoon.

SENATOR HATCH: I don't know. They will make every effort. I want two transcripts, one for the FBI and one for us.

MR. OLSON: Thank you, Senator.

SENATOR HATCH: And any member of the Committee who wants to see the transcript will be able to see it by contacting Mr. Parry, and that would include designated staff members , and I presume that the staff members that have been here are the designated staff members.

So again I would like to caution staff to keep this in confidence until we complete this matter, and same with the FBI and same with members of the Committee. We would like to get through all of these materials as quickly as we can and do it in an expeditious and professional way. Hopefully we can resolve some of the problems and in the future save a lot of pain between the FBI, the Administration and the respective confirming committees or oversight committees.

Thank you for your cooperation.

[Whereupon, at 9:40 a.m., the taking of the deposition recessed, to reconvene at 7:30 a.m., Thursday, August 12, 1982.]

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REPORTER'S NOTE: Exhibits 3, 14, and 15 were marked after the deposition recessed.

EXHIBIT NO. 14

Ex 14
Matten
7/11/82.

THE NEW YORK TIMES, THURSDAY, FEBRUARY 14, 1980 [redacted]

B12 L+

Bronx Corruption Inquiry Pursuing Financial Data

By HOWARD BLUM

Extensive financial records from three New York corporations have been subpoenaed by the Federal grand jury investigating alleged links between narcotics trafficking and political corruption in the Bronx.

In addition, a principal of one of the corporations, Pellegrino Masselli, has received official notice that his telephone conversations have been intercepted during court-approved electronic surveillance over the last three months on four different telephone numbers.

State Senator Joseph L. Galiber received a similar notice from agents of the Federal Bureau of Investigation, saying that calls in which he was a participant had been intercepted by a court-sanctioned wiretap. According to Alfred S. Julien, the Bronx Democrat's attorney, the telephone number on which Mr. Galiber's conversations [illegible] belonged to Mr. Masselli.

'Galiber Is Not Involved'

"At the present time," said Mr. Julien, "Mr. Galiber is not involved in any way in the investigation. He was just talking to someone whose phone was being wiretapped. In fact, we have no idea what this investigation is about."

John Nicholas Iannuzzi, Mr. Masselli's lawyer, said he was also unaware of his client's involvement in the Federal inquiry. "Billy Masselli is a hard-working guy and I don't believe he's mixed up in anything," said Mr. Iannuzzi. Mr. Iannuzzi, who noted that Senator Galiber was an independent lawyer who can be reached at Mr. Iannuzzi's office telephone number, also said that "Joe Galiber and Mr. Masselli are friends."

The Bronx investigation, which was started last spring and has involved the use of at least two undercover F.B.I. agents, has so far not resulted in any arrests or indictments.

However, evidence in the matter has been presented to a Federal grand jury in Manhattan by Michael Ross, an assistant United States attorney. Mr. Ross is assigned to the political corruption unit of the United States Attorney's office.

F.B.I. Silent on Case

Neither the F.B.I. nor the United States Attorney's office will comment on the continuing case. However, there has been no evidence made public that in any manner links Senator Galiber with narcotics transactions.

The Federal subpoenas listed two pages of financial and corporate records and receipts requested by the grand jury from the following three companies: Pellegrino Masselli Meat Company, MIG Land Development Corporation and B.J. Corporation.

All three subpoenas were served at the Pellegrino Masselli Meat Company, at 102 Bruckner Boulevard in the Bronx, and were addressed to Mr. Masselli "or the custodians of these documents."

According to Mr. Iannuzzi, Mr. Masselli has "never heard of the MIG Land Development or the B.J. Corporations and he has no idea why subpoenas for these companies were delivered to his address.

"As far as were able to ascertain," the attorney added, "these companies simply do not exist."

No Listings Found

Records of incorporation in the Secretary of State's Office in Albany found no listings for either the MIG Land Development or the B.J. corporations.

Mr. Masselli, who runs his meat company out of a warehouse behind a gas station directly across the Willis Avenue Bridge in the South Bronx, was investigated by a Federal grand jury for alleged improprieties stemming from his role in the school summer lunch program in 1977. Mr. Masselli was not indicted by the jury.

He has filed suit against the Government for payment of $362,000 for meat he contended was delivered to, but not paid for by the lunch program. The Government is withholding payments to purveyors whose role in the program is still under investigation.

In an interview yesterday Mr. Masselli refused to comment about the subpoenas. He did, however, talk more freely about the large billboard atop his warehouse that read, "Galiber — You can't trust him, who can you trust?' "

"Yes," said Mr. Masselli, "That's my sign. Joe Galiber is friend of mine and I put the sign up."

EXHIBIT NO. 15

Ex 15 Mon 7/11

90 Hours of Tape Spur Bronx Crime Inquiry

Grand Jury Is Studying Evidence of Murder Plots and Drugs

By HOWARD BLUM

[illegible] is behind a gasoline station just a few yards from the Bruckner [illegible] way in the Bronx, [illegible] a gray window[illegible]. Inside, isolated from rows of animal carcasses hanging from steel hooks and [illegible] stant, grinding noise of [illegible]

It was in this office of Pellegrino Masselli Meats Inc. that agents of the M-5 squad of the Federal Bureau of Investigation on March 12, 1979, placed two court-approved wiretaps and several listening devices.

For the next seven months more than 90 hours of conversations were monitored that propelled the Federal agents into an inquiry into allegations of political corruption, narcotics trafficking, organized crime involvement in city and state construction projects, food hijacking, the illegal sale of explosives and conspiracy to commit murder.

Grand Jury Taking Testimony

Testimony and evidence in this inquiry is currently being presented to a Federal grand jury in Manhattan by Michael Ross, an assistant United States attorney, and dozens of subpoenas for financial documents detailing construction contracts have been served on the City Comptroller's office and other city agencies.

Other court orders for appearance have been issued to restaurateurs who allegedly purchased hijacked food, to at least eight construction companies and many of their corporate officers, and to reputed organized crime figures who are suspected of involvement in narcotics transactions.

Central to this inquiry — according to legal papers and individuals who have appeared before the grand jury — is a Bronx-based construction concern, Jopel Contracting and Trucking Corporation, of 102 Bruckner Boulevard, and its principal officers: Pellegrino Masselli, president, and State Senator Joseph L. Galiber, vice president.

Notified of Wiretaps

Neither Mr. Galiber nor Mr. Masselli has been subpoenaed by the grand jury hearing evidence in the investigation. Both men have received Federal papers notifying them that their conversations had been intercepted by court-approved wiretaps. Also, extensive financial records have been subpoenaed from the Jopel Corporation and its phone line has been monitored by a court-approved wiretap. Other construction companies have also been ordered to turn over their records and in many cases have been specifically asked for papers detailing their involvement with the Jopel Corporation.

Both officers of the corporation deny any involvement in wrongdoing or any knowledge of the purpose of the grand jury investigation.

Several calls to Mr. Galiber asking him to comment on his role in the construction company were returned by Stuart Schlesinger, one of his attorneys. "Mr. Galiber has not been accused of anything by anyone and he has no knowledge of what this investigation is about," said Mr. Schlesinger. He added that he had directed Mr. Galiber not to speak to reporters about the Federal inquiry.

Mr. Masselli, in a brief telephone conversation, referring any further questions to his attorney, said in reference to the Federal investigation, "It's all baloney."

The Bronx investigation, according to law enforcement authorities, began late in the winter of 1978 with its intended focus on the alleged use of political influence in obtaining construction contracts. It is not clear what first led to that inquiry. The relatively narrow investigation, though, was expanded after an informant working with the Federal Bureau of Investigation produced allegations about narcotics trafficking.

On March 12, 1979, United States District Court Judge Henry F. Werker, signed an order authorizing the interception of phone conversations on two phones registered to the Masselli meat company. On April 17, Judge Werker extended the time limit on these wiretaps and also authorized wiretaps on a phone registered to the Jopel Corporation. Both the Masselli Meat Company and the Jopel Corporation share the same offices. Additionally, court-scantioned electronic surveillance equipment was also placed in Mr. Masselli's office.

'Just a Fishing Expedition'

One of those who has been questioned by the F.B.I. is Louis Ernest Nargi, a plumbing contractor who has produced financial records for the grand jury, but has not been accused of any wrongdoing. Recalling his questioning and his subpoenaed records, Mr. Nargi said:

"The grand jury is just a fishing expedition. What they got is a lot of tapes with a lot of names of people who live east of the Concourse. Now it's up to them to unravel all the players in the Bronx and what they're really up to."

From interviews with several individuals who appeared before the grand jury, their lawyers, legal papers, and law enforcement authorities, the the investigation is exploring the following allegations:

¶Some Bronx politicians allegedly used their positions to help certain contractors receive work on city and state projects, including excavation work on the Second Avenue subway. Often, according to the Federal investigators, these contractors would not have won the contract through competitive bidding, but would be hired as sub-contractors by the firm officially awarded the contract. In attempting to substantiate this, the grand jury has supeonaed what one agent close to the investigation describes as "a room full of financial papers from the city."

¶As a corollary, contractors appearing before the grand jury have been specifically asked if certain politicians helped obtain public works contracts. Among the firms whose financial papers have been subpoenaed by the grand jury are Nargi Inc., Narco Enterprises, Bob's Masonry Brickwork Inc. and B.L. & A. Contracting Company. None of these concerns has been accused of any illegality by authorities and all the companies — either through interviews with their corporate officers or their lawyers — deny participating in any wrongdoing.

¶At least two other construction firms were allegedly established by organized crime figures as a means of hiding income from narcotics transactions. Also, on the 90 hours of recorded conversations now in the possession of the F.B.I. there are allusions to the price of heroin and cocaine, according to individuals familiar with the investigation.

¶The taped conversations reportedly have repeated references to truck hijackings involving shipments of cheese, fish, and explosives. Financial documents have been subpoenaed from several food purveyors in an effort to establish any role these companies might have had in the resale of this stolen merchandise. Also, restaurateurs from the Bronx and Long Island have appeared before the grand jury to find out if they knowingly purchased hijacked food. Federal agents are also pursuing the sale in Latin America of a truckload of explosives stolen in the metropolitan area.

¶There are said to be numerous references in the taped conversations to certain individuals being elevated to new positions in the frequently changing hiearchy of organized crime. In addition, Federal agents say the tapes have produced leads on the still unsolved 1978 murder of Salvatore Frascone, a jukebox dealer who reportedly had organized crime connections. Mr. Frascone was struck by a fusillade of bullets as he got out of his car on Morris Avenue in the Bronx.

¶Several attorneys whose clients' conversations have been recorded in the course of the investigation have raised questions about the ways in which F.B.I. agents have used these tapes.

According to these attorneys, tapes of one Bronx politician talking to a female associate have been played to another of his female associates. The attorneys believe that this was an attempt by the agents to get the second female associate so jealous that she would divulge incriminating evidence about the politician.

Kenneth Walton, the F.B.I. agent in charge of the Bronx inquiry, would not comment on the attorneys' allegation. But one Federal agent said: "The agents played a tape to a girlfriend of a Bronx politician on which she was mentioned. They did no more and no less."

F.B.I. Warning of a 'Hit'

Mr. Nargi, in an interview after he presented his subpoenaed financial records to the grand jury, also raised questions about the demeanor of the agents of the Federal Bureau of Investigation involved in the inquiry.

"One day last spring," Mr. Nargi recalled, "I got a call from the F.B.I. telling me to meet them at Korvette's in the Bronx. I tell them to come to my house, I got nothing to hide. But they insist I meet them at the store. They got something important to tell me. So I go there and they tell me that they heard on a wiretap that someone was going to kill me.

"Well, you got to believe that upset me pretty much. I went away thinking about that quite a lot. I mean, they said someone was going to kill me. Well, the next day I got a call from them telling me it was all a mistake. It seems the Nargi they heard who had been targeted was someone else. After that I never took their questions too seriously."

STA...
YOU CAN'T TRUST HIM
WHO CAN YOU TRUST?

CERTIFICATE OF REPORTER

I, Tony Jackubosky, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Tony Jackubosky

Tony Jackubosky, Reporter

CERTIFICATE OF REPORTER

I, Cathy Jardim, reporter, do hereby certify that the record of the witness which appears in the foregoing deposition was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Cathy Jardim
Reporter

United States Senate

Committee on Labor and Human Resources

Washington, D.C.

Thursday, August 12, 1982
7:32 a.m.
Room 5302, Dirksen Senate Office Building

RESUMED SWORN RECORD OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources
Senator Dan Quayle, Member, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
J. Kevin O'Brien, Office of Congressional Affairs, FBI
John A. Mintz, General Counsel, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Tim Smith, designated staff member of Senator Stafford
Harold Gordon, designated staff member of Senator East
Bob Marshall, designated staff member of Senator Denton
Joel Lisker, designated staff member of Senator Denton
James Wolfe, designated staff member of Senator Quayle
Tom Parry, designated staff member of Senator Hatch
Bruce Navarro, designated staff member of Senator Nickles
Michael Forscey, designated staff member of Senator Kennedy
Walter Sheridan, designated staff member of Senator Kennedy

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff
Deborah Dahl, Committee Staff

P R O C E E D I N G S

WHEREUPON,

FRANCIS M. MULLEN, JR.

was called as a witness and, having been previously duly sworn by Senator Hatch, was examined and testified as follows:

BY SENATOR HATCH:

Q Let me clear up a few things, Mr. Mullen, that we chatted about yesterday. You testified yesterday--

MR. OLSON: Senator, before you do that, you asked a number of--I can do this now or when it's convenient. You asked a number of questions of things you wanted the witness t bring or to check.

SENATOR HATCH: Why don't you do that then?

MR. OLSON: Excuse me for a moment, but will the attendance of people who are here today be recorded in the same fashion?

SENATOR HATCH: Yes. Why don't we bring into the record who is here? Let's start on the right, other than the court reporter.

MR. SMITH: I am Tim Smith, with Senator Stafford's office.

MR. GORDON: Harold Gordon, with Senator East.

MR. MCCONNELL: Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs.

MR. O'BRIEN: J. Kevin O'Brien, Office of

Congressional Affairs, FBI.

MR. MINTZ: John A. Mintz, General Counsel, FBI.

MR. MARSHALL: Bob Marshall, Senator Denton's office.

MR. LISKER: Joel Lisker, Senator Denton.

MR. WOLFE: James Wolfe, Senator Quayle's office.

MR. PARRY: Tom Parry, Senator Hatch's office.

MR. NAVARRO: Bruce Navarro, Senator Nickles' staff.

MR. FLANNERY: John Flannery.

SENATOR HATCH: We also have two members of our Committee staff, Barbara Mulkey and Carol Egbert, who are in and out during the proceedings.

MR. OLSON: Theodore Olson, Assistant Attorney General, Office of Legal Counsel.

SENATOR HATCH: And, of course, our witness.

Why don't I ask a few questions first, and then let's get to anything I don't cover.

BY SENATOR HATCH:

Q Mr. Mullen, yesterday you testified at page three of the transcript that you became Deputy Assistant Director for Organized Crime and White Collar Crime in October, 1977, and became Assistant Director of Investigations in mid-1978, but said you would check when you became Executive Assistant Director. Could you give us that time frame?

A I haven't obtained that yet. We will get it for you today, Senator.

Q All right.

During your testimony yesterday, you implied that section 17-6.12, page 1294.01, did not apply to cabinet nominations. Do you recall so testifying? That is on page 63 of the transcript yesterday.

A If I could see the transcript. I said did not apply?

Q Yes. You said it did not apply to cabinet nominations.

Let me go a little bit further. The cover letter accompanying those guidelines including that section that I read to you stated, and I quote: "These documents are provided in response to your June 16, 1982 letter in which you request," unquote, a copy of the internal guidelines and procedures which concern investigations of presidential nominees, unquote again. That is the view expressed in the letter of Lee Colwell, the acting director. Do you disagree with him?

MR. OLSON: Can the witness see the letter itself?

SENATOR HATCH: I am going to clarify that and see if we are talking about the same thing or different things.

MR. OLSON: Senator, your question on Mr. Colwell's letter?

BY SENATOR HATCH:

Q Do you disagree with Mr. Colwell's letter?

A I see nothing in here to disagree with.

Q With respect to the prenomination investigation of Donovan, you testified yesterday--let's see, that's at page 34 --that you would check the communications to and from field offices to determine what offices had been contacted or provided information. Did you do that? What did you find?

A Senator, I want to make sure I am accurate on this. Was there a teletype to or a communication to all offices indicating an indices check had been made?

Q Right.

A We could not find no such communication.

Q You could not find it.

A That's right.

Q Do you know if they were preserved? Do you know if any existed? Or you just don't know?

A I do not believe any existed. To my knowledge, they did not.

Q For what reason did Director Webster transmit the memorandum to you about Donovan's applicant investigation dated December 15th, 1980? What, if anything, did you do as a result of receiving this memorandum of the director?

A Can I see that memorandum again?

Q Why don't you get page 38 of the transcript out?

A It's normal procedure, Senator, for the director to prepare notes to record his version of events that had occurred.

Q What did you do as a result of receiving this memorandum from the director?

A Other than initialing it and referring it down to the Investigative Division, the next person in line was Mr. Revell, I took no action.

Q With respect to the investigation of Jopel in the Southern District of New York, did you confirm that Jopel was the subject of investigation in December of 1980? On page 38 here, lines 8 through 10, where you answer: "I would have to check records to be exactly -- which investigations we are talking about. I did refer to two in my testimony before your Committee."

Did you check that? Did you confirm whether or not Jopel was a subject of investigation in December of 1980?

A Excuse me, Senator, if I may.

Q Also, on page 39, line 22, you state: "I do not know. If I may get that for you for the record."

A I did not check that, Senator, but we will see that it is checked.

Q All right. With respect to the investigation of Harry Gross in the Eastern District of New York, did you confirm that Schiavone was a subject of that investigation in December of 1980?

A I did not confirm that. Again, we will. We did not have that down as one of our questions--

Q The same with Montuoro? In other words, none of these you confirmed yet?

A Now, the Montuoro thing, I think, Mr. Olson does have an answer.

SENATOR HATCH: You do? Go ahead.

MR. OLSON: In the first place, we understood you to ask which were--if there was an investigation, which office was handling it and who was the Special Agent in Charge of each office.

SENATOR HATCH: Right.

MR. OLSON: I think that the witness might be able to answer with respect to two of those. With respect to Montuoro, we were not sure what you were referring to and whether you were referring to an investigation in existence in December of 1980--

SENATOR HATCH: Right.

MR. OLSON: I don't know that we know or the witness knows the answer that there was or was not such an investigation in 1980.

THE WITNESS: I had been advised that the Montuoro allegation came to the attention of the FBI much later and was a matter handled by the special prosecutor.

BY SENATOR HATCH:

Q Could you tell me which field office was responsible? You are saying the special prosecutor was the one who handled that?

A . I cannot say which field office was responsible. I will have to obtain that for the record, Senator.

Q Which field office was responsible for the investigation involving Harry Gross? Do you know?

A I have to obtain that for the record.

Q All right. Do you know which field office was responsible for the Montuoro allegations involving Schiavone's alleged ghost employees?

A I do not.

Q Do you know which field office was responsible for the investigation involving Jopel-Masselli? Could you identify the agents involved in each of these cases?

A I would rather do that for the record in connection with the--

Q Maybe what you can do, Mr. Olson, is you can just provide that in writing to us, and that will save us time.

MR. OLSON: If we could do that, Senator, after we get the transcript today so we can review exactly what you are asking and furnish it to you in writing either tomorrow or Monday. Would that be satisfactory?

SENATOR HATCH: All right. I am wondering if we could submit the rest of these questions to you--let me just ask a few others.

BY SENATOR HATCH:

Q You testified at page 13 that you learned from quote, "document," unquote, you, quote, "have read since the hearing that Mr. Revell checked the OCIS system," unquote. Is that correct? That should be "documents." And, if you did learn it from documents, what document or documents did you read that so informed you?

A I can't recall which document, Senator Hatch--

Q Can you check on that and get those for us?

A But since, in addition to any document I may have seen, I just can't recall which document. Mr. Revell has advised me personally of this--

Q But you will get those for us then?

A Yes, if there is a document.

Q What did you discover or learn from the document?

A Hard to say what I learned from it. I don't recall which--

Q But you will make those available to us?

A Yes. I want to be sure that one exists. But I have had also personal conversations with Mr. Revell. He personally advised me that he checked OCIS.

Q Do you know when that search was made?

A I do not.

Q Yesterday you testified at page 43, quote: "it was my understanding that we provided the information to the transition team who then -- in the special inquiry cases, who then provided it to the Senate," unquote.

I then ask you: "So far as you were concerned, it was up to the transition team to make the information available to us rather than the FBI?" And your answer was: "That is correct."

Now, do you wish to change that testimony in any respect?

A Let me look at the whole matter here.

Q Go ahead.

(Off the record)

THE WITNESS: Senator, the answer is still accurate, yes--what you're looking for here--

BY SENATOR HATCH:

Q Let me help you a little bit. Isn't it a fact that you provided the January 7th, 1981 report, which was listed as Exhibit 9, directly to the Committee in response to our request?

A I do recall that in some instances because of the time factor in an effort to assist the Committee--

Q You brought it straight to us--

A It was simultaneous with the knowledge of the transition team, and through the Department of Justice we provided some documents--

Q The point is that the transition team did not provide it to the Committee but you did. Isn't that correct?

A With the knowledge of the transition team.

Q Well, I understand that.

A And, again, it was because of the time factor.

Q One reason I had to put off the whole hearing was that this was not delivered until on January 7th, 1981, until 5:05 p.m. And that delivery was made within Justice. In other words, it was delayed even that late that day. And that's one of the problems that we have here.

Isn't that exactly what the meaning is, what it says on Exhibit 11, where it says: hand-delivered to DAAG, John Keeney, Criminal Division, per instructions of ADAG, Bob Keuch, K-e-u-c-h, 1/7/81, 5:05 p.m., RJB, it looks like to me.

Were you aware of that?

MR. OLSON: The witness does not have that.

Your question is, do those words appear on that exhibit?

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q And isn't it a fact that it wasn't even delivered to Justice, to Keeney, until 5:05 p.m.?

A That's what would be indicated by the note here.

Q Is that note correct?

A I didn't prepare the note, so I can only go by what's written here, Senator.

Q Sure. You don't have any reason to question it, though. I mean, that's the ordinary way that they do business at Justice, isn't it, and at the FBI?

A In the transmittal procedure?

Q Yes.

A Yes.

Q You provided that January 7, '81 report, which is Exhibit 9, before the Picardo allegation surfaced. Now, that is correct, isn't it?

MR. OLSON: Is this Exhibit 9 or Exhibit 11?

SENATOR HATCH: Both refer to the same documents. One is 9, and I think one is 11. One has an internal transmittal cover sheet. You can have both of them.

BY SENATOR HATCH:

Q But isn't that true, that you provided this report to us before the Picardo allegation surfaced?

And I think what we're--

A From my recollection, the Picardo allegations came up sometime afterwards, yes.

Q You see, one of the conflicts we have, I guess, in yesterday's testimony is you testified that it was, quote, "correct," unquote, that you were acting under the assumption until after the Picardo allegation surfaced. And that is found at page 44.

A Yes, that's--is there a question on that, Senator?

Q No, it's just that that's--you know, I'd like that cleared up if we can clear it up. What you're saying--

A I don't know what those--

Q --is that Picardo hadn't surfaced when you provided the January 7, 1981 report. I think that clears it up. You said that you felt Picardo surfaced later.

Frankly, Picardo surfaced, as I understand it, on the 13th of January. Is that correct?

A I can't recall any exact date.

Q Okay.

You testified at page 68 yesterday that you would bring the original memorandum of January 12th, 1981. Do you have that with you?

MR. OLSON: We have the original of that memorandum. We would like to have the Committee examine it and copy it, if necessary; but we would like not to lose the original out of the FBI files.

SENATOR HATCH: Sure. We understand that.

BY SENATOR HATCH:

Q You also testified at page 81 that you would bring the teletype referenced in that January 12th, 1981 memo, which has been listed as Exhibit 13. Do you have that? Did you find that, Mr. Olson, the teletype?

MR. OLSON: Oh, with respect to the teletype, the FBI is still examining that teletype. There are serious concerns about questions of identifying informants. I think we would be in a position maybe at the end of the day to respond more fully.

SENATOR HATCH: All right. And it may be that perhaps, if there is a serious problem with informants, you and I can look it over.

MR. OLSON: I would like to get back to you later today.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Mr. Mullen, you testified at page 69 that you spoke to the case agent who kept the Masselli tapes but did not remember his name. Now, have you found that name out yet?

A Agent Moody.

Q Agent Moody.

A M-o-o-d-y.

Q You testified yesterday that you had a recent conversation with Mr. Monroe. Now, that's found at page 19. In reliance upon that conversation, you believe that Mr. Monroe did not have contact with Mr. Baker. Is that correct? This is Mr. James Baker down at the White House.

A That is correct.

Q When was that conversation that you had with Mr. Monroe? Do you remember approximately when it was?

A Within the past three or four weeks.

Q Was anybody else present at the time?

A I do not believe so.

Q Where did that occur?

A I believe we were jogging.

Q What was said about Mr. Monroe's contacts with Baker? And was anything else discussed at that time?

A No. He was designated as the focal point. But I believe he indicated the relationship developed between Mr. Adamski and Mr. Fielding, and there never arose a need for Mr. Monroe to have contacts.

Q Did you have a recent conversation with Mr. Revell about any aspects of the Donovan investigation?

A We talked, Senator Hatch, about the director's memorandum and as to the HOFEX matters, the references in the HOFEX--as contained in the--

Q The Schiavone?

A That's right.

MR. OLSON: I think the witness is referring to one of the exhibits marked yesterday. It was a December 15 memo, I believe.

BY SENATOR HATCH:

Q Was that all you discussed with Mr. Revell in your recent conversation?

A Could have discussed other matters. Mr. Revell and I confer on a regular basis.

Q With regard to the Donovan matter, Schiavone, HOFEX, Montuoro, Gross--

A Not Montuoro, Gross. That's really not mine that I can recall, Senator.

Q What really was said with regard to matters pertaining to this investigation?

A What really was said?

Q Yes, to the best of your recollection.

A Mr. Revell was trying to recall whether or not he may have mentioned the HOFEX case to the director. He just couldn't recall doing so but said he may have referred to it, may have mentioned the Hoffa case in another context in the same conversation, which would have led to it being included in this note. But we are getting at, really, second- and third-hand here.

Q Do you keep daily logs and calendars of your activities and telephone calls that might help you to remember?

A I do not. I keep a daily log of visitors to my office, but I do not keep a telephone log.

Q Do you have any objection to making available to us any daily log references or any other references you have made with regard to the Donovan and Schiavone matters from, say, December, 1980 to February, 1981?

A I have no objection to making the material available; I don't think my visitor appointment log would indicate meeting so-and-so in regard to the Donovan matter or something like that. But I will--

Q If you will, we would appreciate it.

MR. OLSON: If there is a reference to Donovan.

SENATOR HATCH: That's right.

Let's take about a five-minute break.

(Short recess)

BY SENATOR HATCH:

Q Now let's go back to where we were when we left yesterday, Mr. Mullen. As I understand it--

We will put this into the record as Exhibit No. 16. This is a chronology that was provided to us, I guess, by the White House, or by the Justice Department. Yes, in a letter dated June 25th, 1982, from Mr. Robert A. McConnell.

(Exhibit No. 16 was marked for identification.)

BY SENATOR HATCH:

Q Are you familiar with this chronology?

A No. I have to see it, Senator.

Q You haven't seen that?

MR. OLSON: He may have seen it. He doesn't know what you--

(Off the record)

BY SENATOR HATCH:

Q You have seen that?

A I do not recall seeing it, but I have it--

EXHIBIT NO. 16(A)

16A GA

DATE	CONTACT	DOCUMENT	TAB
11/30/80 or 12/1/80	Oral request to SA Adamski by Mr. Fielding for name check on Mr. Donovan. No record in FBIHQ indices and Fielding so advised (with understanding that a formal name check request would be forthcoming).	—	—
12/2/80	Fielding furnished Adamski with list of names for name checks including Raymond J. Donovan.	L. E. Dean to Mr. Finzel memo 12/3/80 (with enclosure).	1
12/5/80	Jane Dannenhauer, Office of President Elect (OPE) furnished with results of FBIHQ name check and Identification Division check by Adamski (both no record identifiable with Donovan).	Security Name Check Form stamped 12/5/80	2
12/5/80	Director Webster met with Mr. Meese regarding the Donovan inquiry.	Director's note "12/5/8_" (12/5/80)	3
12/12/80	Pen James called Director Webster on Mr. Meese's behalf concerning the Donovan inquiry.	Director's memo to Mr. Mullen 12/15/80	4
12/12/80	Mr. Meese called Director Webster concerning Donovan.	Director's memo to Mullen 12/15/80	4
12/30/80	Adamski received 15 major position nominee applications including one on Donovan from Fielding who orally requested that the investigations be completed and reported by 1/5/81. (It should be noted that there were various unrecorded telephonic and personal conversations between Adamski and Fielding during this pertinent time period regarding the status of these investigations. The Donovan investigation may have been mentioned in one or more of these conversations, but Adamski does not recall whether or not such was the case.)	12/30/80 memo from Fielding to FBI.	5

1/5/81	Fielding was furnished a summary containing the results of the Donovan background investigation.	FBI letter to Fielding 1/5/81 with Letterhead Memorandum (LHM) attached.	6
1/7/81	Copy of FBI response to Senator Hatch's 12/31/80 letter sent to OPE.	Senator Hatch's letter to Director Webster 12/31/80 and FBI memo to Assistant Attorney General (AAG), Office of Legislative Affairs (OLA) 1/7/81 with attached letter to Senator Hatch and LHM 1/7/81.	7
1/8/81	Associate Deputy Attorney General Robert L. Keuch telephonically advised Fielding of response to Senate Labor Committee's request concerning the Schiavone Construction Co. and Donovan.	Keuch memo to files 1/8/81.	8
1/11/81	SA Adamski orally furnished Fielding with information received from New York Office 1/10/81 regarding Donovan.	C.P. Monroe to Mullen memo 1/12/81	9
1/12/81	Fielding was furnished a summary of information received from New York Office 1/10.81 regarding Donovan.	C.P. Monroe letter to Fielding 1/12/81 with LHM enclosed.	10
1/14/81	Fielding orally advised by Adamski about information received from Ralph Picardo, a protected government witness.	Informative "note" of FBI's Criminal Investigative Division dated 2/14/80 (should be 1/14/81)	11

1/14/81	Fielding furnished with summary of information received from Picardo.	FBI memo to AAG, OLA 1/14/81 with enclosed letter to Senator Hatch 1/14/81 with its enclosed LHM.	12
1/15/81	Fielding and Senate Labor Committee staff members given briefing by FBI concerning allegations made by Picardo.	FBI memo to AAG, OLA, 1/16/81, with enclosed letter and LHM to Senator Hatch dated 1/16/81.	13
1/16/81	Information provided at the 1/15/81 briefing, supra, forwarded to OPE.	FBI memo to AAG, OLA, 1/16/81, with enclosed letter and LHM to Senator Hatch dated 1/16/81.	13
1/24/81	Results of additional investigation regarding Donovan delivered to Fielding by Adamski.	FBI memo to AAG, OLA 1/23/81 with enclosed letter and LHM to Senator Hatch dated 1/23/81 (LHM as it appears in record of Hearings before the Senate Labor Committee, 1/12/81 and 1/27/81).	14

EXHIBIT NO. 16(B)

16B

CHRONOLOGY OF EVENTS RE: DONOVAN CONFIRMATION
(November 30, 1980 through February 3, 1981)

November 30 - December 1, 1980:	Fred F. Fielding (Conflicts Counsel for the Transition Office) telephones FBI and requests it to do "indices check" on Raymond Donovan, who is being considered for possible nomination. FBI advises that results of indices check reveal that its central files contain no information on Donovan.
December 2, 1980:	Fielding requests FBI to do standard "name check" on Donovan.
December 5, 1980:	Edwin Meese III (Chief of the Transition Office) meets with FBI Director William H. Webster, and asks to be advised prior to commencement of full field background investigation if checks reveal any allegations relating to organized crime.
	FBI advises Transition Office that results of name and indices checks reveal that its central files contain no information on Donovan.
December 12, 1980:	On behalf of Meese, E. Pendleton James (head of Personnel for the Transition Office) calls FBI Director Webster to ask results of checks. Webster memorandum of conversation indicates that he advised James that FBI central files and field offices have no information on Donovan, and that Webster later confirmed this directly with Meese.
December 16, 1980:	Announcement made of intention to nominate Donovan to be Secretary of Labor.
December 30, 1980:	FBI commences background investigation of Donovan in connection with his prospective nomination, which the Transition Office requests be completed by January 5, 1981.
January 5, 1981:	FBI Memorandum dated January 5, 1981 on background investigation of Donovan is transmitted to Fielding. This Memorandum was shown to the Senate Committee on Labor and Human Resources prior to its initial, January 12, 1981 hearing on nomination. (Committee Report, p. 3)
	[Pursuant to standard practice, this FBI Memorandum was shown to the Chairman and Ranking Minority Member of the Committee, but not retained by the Committee. Later during the

confirmation proceedings for Donovan, the FBI, through the Department of Justice, provided letters and Memoranda directly to the Committee, which retained them. Copies of such documents were sent to Fielding. These included documents dated January 14, January 16, January 23, January 29, and February 2, 1981.]

January 7, 1981: In response to Senate inquiry, FBI Director Webster sends letter, through the Department of Justice, to the Committee (with copy to Fielding) about two allegations:

"In a letter dated January 7, 1981, the Director of the FBI explained that two allegations had come to the Bureau's attention regarding the Schiavone Construction Company. The first allegation was that in 1967 Schiavone Construction Company made a payment to the Kantor Supply Company, apparently a dummy company involved in an illegal money laundering operation for individuals making payoffs to political figures in Newark, New Jersey. The second allegation was that Schiavone Construction Company had been criminally extorted by an official of Teamsters Local Union 282 in New York City." (Committee Report, p. 4)

January 8, 1981: In response to Committee request, Associate Deputy Attorney General Robert L. Keuch sends letter to Committee enclosing documents about Kantor Supply Company and Schiavone Construction Company. Keuch also calls Fielding to advise response is being made to Committee request.

January 11, 1981: Fielding called by FBI Agent Anthony Adamski and told of allegations involving Donovan and Schiavone Construction Company received during the course of the continuing investigation.

An FBI Internal Memorandum dated January 12, 1981 states that the FBI has received allegations that the Schiavone Construction Company is "mobbed up" and that Donovan went to the 1979 Super Bowl with an "LCN" (La Cosa Nostra) "soldier," William Masselli. (FBI Internal Memorandum from C.P. Monroe to Frances M. Mullen, Executive Assistant Director, FBI, January 12, 1981)

However, with respect to what was told to Fielding, the FBI Internal Memorandum states that the information was provided to Fielding "in general terms to protect the identity of the New York sources." The FBI Internal Memorandum does not use the term "wiretap," though it refers at one point to a "Title III overhear."

The FBI Internal Memorandum also states that Adamski asked Fielding "if he wished Mr. Donovan interviewed concerning these allegations and Mr. Fielding stated that he did not wish Mr. Donovan interviewed by Bureau agents at this time because it would serve no purpose since there were no specific allegations of criminal misconduct."

The FBI Internal Memorandum states, "None of the New York sources was able to provide any information that shows any specific criminal misconduct on the part of Mr. Donovan." It concludes by stating "[i]nvestigation at New York, Newark, and Miami continuing to resolve the allegations of Mr. Donovan's possible LCN affiliations."

[The FBI, through the Department of Justice, provided a copy of the FBI Internal Memorandum to the Committee Chairman and Ranking Minority Member on June 15, 1982. The White House was provided a copy on June 16, 1982.]

Consistent with the foregoing, Fielding has stated that he was told by Adamski that one of the FBI field offices had received a general allegation that some "hoodlums" reported that Donovan had been invited to or had attended a social event or events with reputed "crime figures," and that the FBI would follow-up on the allegation, to the extent possible. Fielding has also stated that Adamski did not mention that the allegation was based on a "wiretap," and the FBI has subsequently stated that Fielding was never so advised. [As to whether a "recording" was mentioned, Fielding has stated he does not recall this from the conversation, but that he cannot, some eighteen months later, say with certainty that this word was not used.]

January 12, 1981: Committee holds first hearing on Donovan nomination.

Senator Hatch questions Donovan with respect to issues raised in the January 7 Webster letter and the January 5 FBI Memorandum. (Committee Hearing Record, pp. 62 et seq.)

FBI forwards to Fielding a Memorandum dated January 12, 1981, supplementing the January 5 Memorandum, and setting forth information about alleged ties to organized crime figures as provided to Fielding "in general terms" the previous day.

The January 12 Supplemental Memorandum is one-half-page long, and states that FBI files in New York indicate that Donovan "has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources."

The January 12 Supplemental Memorandum also referred to an allegation of a personal nature about Donovan.

The January 12 Supplemental Memorandum concluded: "It is noted that none of the information available indicates any criminal wrongdoing on the part of Mr. Donovan."

The cover letter from the FBI to Fielding transmitting the January 12 Supplemental Memorandum stated: "It is noted, that the investigation of Schiavone Construction Company, Secaucus, New Jersey, is an ongoing investigation and is not anticipated to be completed in the near future."

Although it was Fielding's understanding that all FBI Memoranda were made available to the Committee before its final hearing on January 27, this is apparently disputed by Senators Hatch and Kennedy with respect to whether the January 12 Supplemental Memorandum was shown to the Committee by the Transition Office. However, the significant point is that the Committee was aware of the existence and contents of the January 12 Supplemental Memorandum at least three days before the hearing on January 27. The January 23 FBI Memorandum

	was provided to the Committee and inserted by Senator Kennedy in the public record of the proceedings (except for some sensitive information made known to the Committee, but about which the FBI expressed concern). (Committee Hearing Record, p. 232) This January 23 FBI Memorandum not only expressly referred to the January 12 Supplemental Memorandum, but also expressly stated the allegations of ties with organized crime figures. (Id., pp. 233-34)
January 13, 1981:	FBI receives new information and allegations about Donovan from one of its protected witnesses and informants, Mr. Ralph Picardo. (Committee Report, pp. 6-7)
January 14, 1981:	"[T]he Committee was advised of the additional information [from Picardo], prompting Chairman Hatch and Senator Kennedy, the Committee's Ranking Minority Member, to request the Federal Bureau of Investigation to undertake a thorough investigation of the issues raised." (Id., p. 7)
January 15, 1981:	"Committee staff representing Chairman Hatch and Senator Kennedy were briefed at FBI headquarters by FBI personnel regarding the information provided by Picardo. Also present at the FBI briefing was Fred Fielding, Conflicts Counsel to the President. Following the briefing by FBI personnel, counsel to Chairman Hatch and Senator Kennedy were permitted to interrogate Picardo. This interview lasted some two hours." (Id.)
January 16, 1981:	FBI Director Webster sends letter, through Department of Justice, to Committee (with copy to Fielding) about Picardo information.
January 20, 1981:	Donovan nominated to be Secretary of Labor.
January 23 - January 24, 1981:	Nineteen-page FBI Memorandum dated January 23, 1981 on follow-up investigation of Donovan is submitted to Fielding and the Committee. (Committee Hearing Record, p. 232) In paragraph 2, the January 23 FBI Memorandum expressly refers to the January 12 Supplemental Memorandum and expressly states the allegations of ties with organized crime figures. The two Memoranda read as follows with respect to those allegations:

January 12 Supplemental Memorandum	January 23 FBI Memorandum
"The information in this summary memorandum supplements the information contained in a summary memorandum dated January 5, 1981. "A review of the files of the New York Division of the FBI, indicates Mr. Donovan, through his position with Schiavone Construction Company, Secaucus, New Jersey, has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources. . . .	"On January 12, 1981, in another communication, the FBI advised the Conflict of Interest Counsel of the President-elect that the New York Division of the FBI obtained information that Mr. Donovan, through his position in SCC, had social and business ties with organized crime figures. The New York Division developed information between January 8 through January 10, 1981, through sources, that the SCC, in which Mr. Donovan is an Executive Vice President, is 'mobbed up.' One source indicated the upper management of SCC is closely aligned with organized crime elements through its contacts with Jopel Construction headed by William Masselli, who is an alleged self-admitted 'soldier' in an organized crime group. This source alleges Mr. Donovan is acquainted with organized crime figures through Masselli on a business and social basis.
"It is noted that none of the information available indicates any criminal wrongdoing on the part of Mr. Donovan."	"None of the New York sources was able to provide any information to show any specific criminal misconduct on the part of Mr. Donovan."
(January 12 Supplemental Memorandum [deleting allegation of a personal nature])	(January 23 FBI Memorandum, pp. 1-2, quoted in Committee Hearing Record, pp. 233-34)

The January 12 Supplemental Memorandum and the January 23 FBI Memorandum vary only in the following respects:

(1) The January 23 Memorandum was, of course, a much longer Memorandum, which covered a number of other matters in addition to stating the allegations of ties with organized crime figures contained in the January 12 Supplemental Memorandum.

(2) The January 12 Supplemental Memorandum refers to allegations that Donovan has "close

personal and business ties with known La Cosa Nostra (LCN) figures," but states that "[t]he degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined." The January 23 Memorandum refers instead to "social and business ties with organized crime figures." With respect to this allegation, FBI Executive Assistant Director Mullen testified before the Committee on January 27, 1981 that "[t]he FBI has found no evidence to substantiate that information." (Committee Hearing Record, p. 263) [A copy of this page is attached.]

(3) The January 23 Memorandum states an allegation that Schiavone Construction Company is "mobbed up." This phrase is not used in the January 12 Supplemental Memorandum, but does appear in the FBI Internal Memorandum of that date from Monroe to Mullen.

(4) The January 12 Supplemental Memorandum states that allegations of ties with unnamed organized crime figures were "corroborated by independent interviews of confidential sources," though noting that "[t]he degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined." The January 23 Memorandum describes reports from various "sources," which Mullen described further in his testimony before the Committee on January 27. (Committee Hearing Record, pp. 263-64) [Copies of these pages are attached.]

[With respect to the allegation of "social and business ties with organized crime figfigures," Mullen testified that "[t]he FBI has found no evidence to substantiate that information." With respect to the allegations that Schiavone Construction Company is "mobbed up," that its "upper management" has ties with "organized crime elements" through Masselli, and that Donovan "is acquainted with organized crime figures through Masselli on a business and social basis," Mullen was asked by Chairman Hatch whether the FBI had "been able to prove any of these allegations," and responded, "We have not." Chairman Hatch specifically asked whether the FBI had "extensively checked up on these allegations." Mullen responded, "We have, through other sources and information described in my opening statement." (Committee Hearing Record, p. 263)]

(5) The January 12 Supplemental Memorandum includes an allegation of a personal nature about Donovan that is not mentioned in the January 23 Memorandum.

January 27, 1981: The Committee holds an additional hearing on Donovan's nomination, at which FBI personnel testify.

- Senator Kennedy inserts the January 23 Memorandum in the public record of the proceedings (except for some sensitive information made known to the Committee, but about which the FBI expressed concern). (Committee Report, p. 232)
- That Memorandum expressly refers to the January 12 Supplemental Memorandum, and expressly states the allegations of ties with organized crime figures.
- Senators Hatch and Kennedy question Donovan, Mullen and Adamski on information contained in the January 23 Memorandum.
- Senator Hatch quotes directly from the portions of the January 23 Memorandum that refer to the January 12 Supplemental Memorandum and state the allegations of ties with organized crime figures, in posing a series of questions to Mullen about those allegations. (Committee Hearing Record, pp. 263-64) [Copies of these pages are attached.]
- Senator Kennedy also makes specific reference to the same portions of the January 23 Memorandum, stating "I have just some specific questions dealing with that second paragraph [of the January 23 Memorandum]." (Id., p. 264)

January 29, 1981:	The Committee votes to report the Donovan nomination favorably, by a vote of 11 yeas, no nays, and 5 "present." (Committee Report, p. 28)
January 30, 1981:	The Committee Report is filed. The Report refers to the January 23 Memorandum. The Report specifically discusses the portions of that Memorandum that refer to the January 12 Supplemental Memorandum and state the allegations of ties with organized crime figures in its statement of the "Committee Analysis and Conclusions." (*Id.*, p. 25)
February 3, 1981:	The United States Senate confirms Donovan's nomination to be Secretary of Labor.

* * *

[This Chronology was prepared by the Office of Counsel to the President, based on recollections of White House officials and review of the documents provided by the White House to the House Judiciary Committee on June 25, 1982, in response to Chairman Peter W. Rodino, Jr.'s letter to the President dated June 18, 1982. The Chronology was also reviewed by Department of Justice and Federal Bureau of Investigation officials, and includes information supplied by those officials. The White House has been advised that the Department and the FBI believe the Chronology to be accurate.]

Q You're familiar with it, okay.

MR. OLSON: The witness' confusion may stem in part from the fact that it does not have the word chronology on it. It may have been considered by some people as an index to documents, but it certainly is arranged chronologically.

SENATOR HATCH: Sure.

BY SENATOR HATCH:

Q As far as you know, that is the correct chronology or index. Is that correct?

A I didn't prepare it, but--

Q As far as you know.

A As far as I know.

Q Okay.

Did you participate at all in the preparation of it?

A I did not.

Q Now, this Exhibit No. 9, which is the January 7th letter from William Webster with an accompanying January 7th discussion of Raymond J. Donovan. Were you able to identify the agent who obtained the information from the informant in this matter?

A I don't know--

Q You don't know--

A --what we are talking about, Senator. I need--

MR. OLSON: May the witness see the exhibit?

Senator, the exhibits to the testimony yesterday were not made a part of the transcript. So, we do not have a set of them arranged as they were produced yesterday.

SENATOR HATCH: Let me go to another question. Let us talk about the January 12th memorandum, which was the one that is mainly in controversy here.

BY SENATOR HATCH:

Q You are familiar with which one we are talking about. That is the one you brought a copy of this morning, or brought the original--

MR. OLSON: Yes, and we furnish--

SENATOR HATCH: Where is that original? Let's give that back to you so that you can hold onto it.

BY SENATOR HATCH:

Q Can you identify the agents who obtained the information on that January 12th memorandum?

A I cannot identify them to you now. Could perhaps obtain the identification of the agents.

Q I didn't hear that.

A I say, I cannot identify them to you at this time but could perhaps obtain the identity.

Q Okay.

As I understand it, whoever was the agent got the information for that particular document or memorandum from an informant or informants. Is that correct?

A I'm sorry, Senator?

Q Did that information come from informants? Embodied within that January 12th memorandum.

A It appears to, yes.

Q Okay. Do you know if the agent initiated the contact or whether the informant came forth voluntarily?

A I do not know.

Q Who was advised of this information on the 8th of January, which was a Thursday? As I understand it--

A I--

Q It says right--

A I don't know.

Q It says right in the memorandum that the information has been developed as of January 8th, 1981.

A Right.

Q So, you don't know who was advised of it? Do you know if Ken Walton was?

A I do not know if he was or not.

Q Was anybody in Washington such as Colwell, Mullen, yourself, Monroe, Schulte, Adamski?

A Who was advised of the information?

Q Of this information as of January the 8th, or before January 12th, anytime before January 12.

A Not to my knowledge. The memorandum was prepared by Mr. Adamski.

Q Are there any additional memoranda or correspondence regarding these communications in this memorandum dated January 12, 1981, which is Exhibit No. 13?

A We did discuss a teletype yesterday, I believe, does relate to this memorandum.

Q You are going to get that for us or at least look at it and see if you can provide that for us.

MR. OLSON: Yes, we are going to try to give you an answer to that later today.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Is that the only other communication there was with regard to this? Or were there--well, let me ask that question first. Was there any other communication regarding this other than the teletype, if that exists?

MR. OLSON: Which preceded it?

SENATOR HATCH: Which preceded it.

THE WITNESS: Not that I am aware of.

BY SENATOR HATCH:

Q Do you know of any memoranda or other documents or information that succeeded this memorandum that we have not had provided to our Committee?

A I should clarify. As a matter of practice, when an informant or source is contacted, a contact form is prepared. I cannot say whether it was or was not done in this case. That is normal practice. But I do not--

Q But you don't know?

A --have any personal knowledge.

Q Where would that be? Would that be in part of the records at the FBI?

A It would be in the records of the office where the information was obtained.

Q I see. Was there any conversation on January 8th, 1981 or afterward concerning how this information would be conveyed to President Reagan's transition team or to the Committee? If so, who said what and when?

A I took part in no conversations.

Q You took part in no conversations pertaining to this memorandum after January 8th, 1981?

A After January 8th? I thought we were referring on January 8th.

Q No, I am talking about since January 8th, 1981.

A And--

MR. OLSON: Is there some later time limit? Are you talking about during the confirmation--

SENATOR HATCH: I am talking about on January 8th, 1981 or any time afterwards. Let's limit it to the date between January 8th, 1981 and the date Mr. Donovan was confirmed.

THE WITNESS: I don't recall any such conversation.

BY SENATOR HATCH:

Q But you may have had conversations?

A None that I can recall.

Q Are there any memoranda or correspondence that you know of regarding any conversations whether or not you participated in them?

A Relating to the dissemination of this information?

Q Relating to this January 12th, 1981 memorandum.

A Not to my knowledge, Senator.

Q Are you aware of any discussion by anyone to delay divulging this information to the Committee or to the White House?

A To delay divulging the information?

Q Right.

A I am not aware of any such--

Q What caused the delay, if you know, Mr. Mullen, in transmitting the information by teletype from January 8th, which was a weekday, to January 10th, 1981, which was a Saturday?

A Now, referring to the--

Q Information--

A --telephone--

Q The teletype information pertaining to this memorandum.

A Now we are talking about a two-day delay here?

Q We are talking about a delay from January 8th, when the information was developed, to the teletype date, which we understand to be January 10th, 1981. January 8th was a weekday. January 10th was a Saturday.

A I do not know.

Q The memorandum says--

A Yes, I see--

Q It says, the New York division advised by teletype dated January 10th, 1981, attached, that information has been developed as of January 8th, 1981.

Now, have you personally seen that teletype?

A I have seen the teletype.

Q Can you tell us basically what it says?

MR. OLSON: The problem with that, I think, is the same as the problem I raised earlier with respect to the teletype and the informant information contained in it.

BY SENATOR HATCH:

Q Well, tell us the substance without identifying any informant.

A I can't recall the substance. I would have to see the teletype again.

Q When was the last time you looked at that teletype? Do you know?

Did you look at it yesterday?

A I did not, no. It could be as long as a year ago.

Q Does the memorandum of January 12th, 1981, does that accurately reflect what was included in the teletype?

A I can't comment, Senator--

Q You don't know whether--

A --I'd have to have them together.

Q What is your belief about it? Do you believe this accurately reflects, or is the teletype more detailed than this particular memorandum, which is quite detailed?

A Senator, unless I had the teletype, without it I'd be hard-pressed to comment on that.

Q Do you know how long the teletype is, how many pages?

A I do not.

Q Okay. Do you know who transmitted it? The teletype, that is. Was that Special Agent in Charge Walton?

A Well, he wouldn't have personally transmitted it. I--

Q No, but did he cause the transmis--

A I couldn't tell unless--

Q Did he cause the transmission?

A I cannot say.

Q Okay. I would like to see a copy of the teletype. And you're going to look at it and see if there is information you can't show to me that you might be able to--or informant information. But I would like to see that.

MR. OLSON: We know that there is--and I have not seen it either, Senator. We know that there is very sensitive informant information.

SENATOR HATCH: I understand. And I don't want to see the sensitive informant information. But I do want to see the teletype.

MR. OLSON: And what I undertook to do was to get back to you, your representatives or your staff, this afternoon with a further response to that.

SENATOR HATCH: So, you will try and do that by this afternoon?

MR. OLSON: Yes.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Could I ask you this? To your knowledge, is the person mentioned in the teletype still an active informant?

A I do not know.

MR. OLSON: The witness has one more point.

THE WITNESS: Two items, I do recall contained in the teletype. At the end there was a statement that the information, so singular in nature that to disclose it would result in the death of the informant. Number one. A second item in there--and I do not recall the name of the bureau official in New York--said something to the effect that an express promise of confidentiality was given to the source's attorney.

That is from my recollection of having seen it some time ago, Senator.

BY SENATOR HATCH:

Q So, the teletype had more information in it, then, than this January 12 memorandum that we have, mainly pertaining to the informant and matters that would lead to his disclosure, which, in your opinion, the opinion of the FBI, would lead to his death if his identity was disclosed?

A From that standpoint, yes.

Q Okay.

Can you answer this question? See, one of the things that bothers members of our Committee is that we didn't receive this information in a timely fashion. Yet, here you tell us that the information was so sensitive on this teletype, from which this January 12th memorandum was made, that you couldn't give us the full teletype or the full information, in other words the full information about Mr. Donovan, without fear that an informant or informants would be murdered. Is that correct?

MR. OLSON: That is a rather complicated and compound question. It assumes your own conclusion with respect to the timeliness of receipt by the Committee of information. I simply think that you do not--

SENATOR HATCH: Let me make the question more simple.

BY SENATOR HATCH:

Q If the teletype contained no other substantive information other than what we find in the January 12th, 1981 memorandum except for the identification of the informant or information that would lead to the identification of the informant and possibly his death and you were concerned about giving that information to us, even though all of the information pertained to Mr. Donovan. Is that correct?

A I don't understand your question.

MR. OLSON: It wasn't in this case--I don't know what you mean by concerned about giving this information to us.

SENATOR HATCH: What I am concerned about is this. As I understand it, you believe that the teletype contained basically the information that we now have in the January 12th, 1981 memorandum. In addition to that information, of which we are aware, there was additional information that would have led to the identity of the informant or informants and possibl to the death of the informants. Yet, all of this information pertained to Mr. Donovan.

BY SENATOR HATCH:

Q Is that correct? Mr. Donovan and/or Schiavone Construction Company.

A Yes. The information did pertain to Mr. Donovan--

Q And yet you were concerned that, if you disclosed it, the informant would be killed or at least--

A It wasn't a matter of disclosing--

Q --information surrounding his identity.

A --not disclosing the information. It was the manner, the format in which it was disclosed. Based upon this information, a letter, a memorandum was prepared--and I do not have the date of that--and disseminated to the transition team.

Q Well, let me ask you this. Was the informant in this matter subsequently prosecuted?

A I do not know.

SENATOR HATCH: Do you know, Mr. Olson?

MR. OLSON: No, I do not know. And I am concerned, Senator. I hope that we could defer this further inquiry with respect to that subject you are pursuing right now until we have a chance to talk to you about how much of this teletype background information, because I am--

SENATOR HATCH: All right.

MR. OLSON: --concerned that incorrect inferences might be drawn unnecessarily.

SENATOR HATCH: All right. Then it is important that we get into that teletype. I hope that in some way or other I will be able to at least review it with you, Mr. Olson.

MR. OLSON: As I say, we will get back to you this afternoon.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q As I understand it, Mr. Fielding was not told about this information found in the memorandum of January 12th, 1981 until January 11th, 1981. That is correct, isn't it?

A According to the memorandum, that is correct.

Q Were you responsible for that delay? Who was if you were not?

A No, I was not responsible for that delay.

Q For what reason, could I ask, did you not give it to the Committee for the hearing on the 12th of January, 1981? Let me preface that with a little more information.

Here we are, having a January 5th memorandum, which Mr. Fielding claimed that he showed us in a manila folder, showed Senator Kennedy and me, which basically found Mr. Donovan had no problems with regard to the confirmation process. On January 8th, he discovered new information. The teletype was made on January 10th. The information was given to Mr. Fielding on January 11th. The memorandum was hand delivered to the White House on January 12th, apparently at the same time that we're holding the confirmation proceeding or hearing with regard to Mr. Donovan.

I would like to know what was the reason or the reasons why the FBI or, if you know, the White House did not give this to the Committee as of January 12th, 1981, so that we would have it in time for that hearing?

A I do not know the reasons. I am not even sure that we were aware that there was a January 12th hearing. And the contacts, in addition to the written record that we have, Senator Hatch, there were frequent contacts between staffers and Mr. Adamski. I believe it is a question that could best be addressed by him because he received the information and prepared the documentation.

Q Well, as you recall, I delayed the hearing about a week because we wanted to get as much information as we possibly could until the 12th of January. You are aware of that, aren't you?

I might add, in the opinion of the Chairman of the Committee, the FBI's--the lack of information was what caused that delay until the 12th of January.

A I was not aware that hearings were delayed, Senator.

Q Was there any concern at the FBI at all that perhaps this should be disclosed to the Committee since the Committee was the confirming, was at least the Committee to oversee and hold the confirmation hearings?

A By concern, we followed our, we fulfilled our responsibilities, we believe, by preparing the letterhead memorandum for dissemination.

Q On what date do you believe you transmitted the information contained in the January 12th, 1981 internal memorandum to this Committee?

MR. OLSON: Are you asking about this particular witness or the FBI or the transition team?

SENATOR HATCH: The witness, the FBI, the transition team, anybody, if he knows.

THE WITNESS: I believe there was a letterhead memorandum dated the 12th of January.

BY SENATOR HATCH:

Q But you didn't transmit the memorandum dated the 12t of January to the Committee--

A Not to my knowledge.

Q When did this information, when did you transfer this information to the Committee?

A I was not involved in transferring it. I do not know.

Q It certainly wasn't on or before the 12th. You agre with that?

A I do not know, can't answer that.

Q But you did transfer it to the White House by oral communication on the 11th to Mr. Fielding and then by written memorandum hand delivered on the 12th. Is that correct?

A That--

MR. OLSON: Mr. Adamski on the 11th--

SENATOR HATCH: Yes, the FBI--

THE WITNESS: According to this memorandum, that is correct, Senator.

BY SENATOR HATCH:

Q Do you know if any conversations took place between Mr. Fielding and you or any other member of the FBI with regard to whether or not this memorandum should be submitted to the Committee or at least the materials within the memorandum, in time for the hearing or at any time?

A I did not take part in any such discussion nor am I aware of anyone else having such discussions.

Q Where do you live?

A Where do I live?

Q Yes.

A Vienna.

Q Where does Mr. Adamski live?

A I do not know.

Q Do you ever car pool together?

A I do not.

Q But you do run occasionally together?

A That was Mr. Monroe.

Q Mr. Monroe and you. Okay. Well, now you can see one of the concerns of the Committee. The concern is that here we were, receiving information that there is basically a clean bill of health given Mr. Donovan as of January 5th, 1981. We were going to hold a hearing on January 7th or thereabouts. We delayed that hearing because we felt like we didn't have enough information. We scheduled a hearing for

January 12th. On the 8th they uncover this information from an informant or informants listed in the January 12th memorandum. On the 10th that is transmitted to the bureau by teletype. On the 11th there is an oral conversation with Mr. Fielding down at the White House giving him basically this information, and on the 12th a hand-delivered copy of the memorandum to Mr. Fielding. And, yet, we go ahead with the hearing on January 12th, 1981, oblivious to all of this, thinking that the only problem that possibly existed was, I guess, the Harry Gross problem--not the Harry Gross; it was the Kantor problem.

This has caused the Committee a great deal of concern, as to why we were not given that information.

Then, if you add to the fact that, since the confirmation hearing on the 12th seemed to be an uneventful hearing, basically, I scheduled a markup for the 15th, three days later.

Now, as I understand it, Mr. Picardo surfaced on the 13th. Are you aware of that?

A I accept your date on it. I am sure I could check records and get the exact date.

Q According to the special prosecutor's report on January 13th, 1981, Mr. Picardo informed Special Agent John Hersh that he had received, quote, "labor payoffs," unquote, from Mr. Donovan in the 1960s. Now, that is right, isn't it?

A I'd have to see the documents, Senator.

Q On January 14th, 1981, the Committee received a letter from you advising the Committee that additional information has been developed since January 7th, 1981. Isn't that right?

Let's put this special prosecutor's report information in as Exhibit No. 17.

(Exhibit No. 17 was marked for identification.)

SENATOR HATCH: Let's make this January 14th, 1981 internal memo including a letter to me as Chairman of the Committee from Director Webster including a paragraph on Secretary Donovan into the record as Exhibit No. 18. I will give you a copy of it.

(Exhibit No. 18 was marked for identification.)

SENATOR HATCH: The last page, I believe, is called a letterhead memorandum. It is also dated January 14th, 1980--it says '80, but it should be '81. And that is entitled Raymond J. Donovan.

#17

EXHIBIT NO. 17

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/20/81

Ralph M. Picardo, a protected government witness, furnished the following information:

Picardo recalled Schiavone Construction Company (SCC) as a firm located on Paterson Plank Road, Secaucus, New Jersey. Picardo became involved with SCC during either the latter part of 1967 or the early part of 1968, as the result of his employment at O.K. Trucking (OKT), a firm operated by Al Checci. Checci managed or operated OKT on behalf of it's hidden owner, Salvatore Briguglio, an individual who was employed as a Business Agent at International Brotherhood of Teamsters (IBT) Local 560, Union City, New Jersey. Briguglio brought Picardo to OKT in order to learn the trucking business. During this period OKT operated approximately six trucks and was involved with local cartage work. OKT did not own any Interstate Commerce Commission (ICC) authority.

Picardo visited SCC on approximately 15 or 20 occasions in order to "pick up" checks which were offered as payment for "labor peace" on behalf of SCC. Picardo "dropped off" invoices which were prepared in order to generate checks for the alleged rental of trucks/tractors to SCC by OKT. Picardo advised these invoices were fraudulent since OKT never furnished any equipment to SCC and the invoices were merely a method utilized to generate "pay offs". Subsequent to his receipt of these checks, Picardo furnished the checks to Checci, who then cashed these checks and furnished them to Briguglio. Picardo recalled several of these checks being made payable to OKT or XYZ Leasing (XYZL) in the amounts of approximately $500. XYZL was a company operated by Picardo. During this same time period trucks/tractors legitimately rented for approximately $100 per week.

Picardo recalled that he furnished these invoices to and received the checks from an individual employed at SCC whom Picardo recalled as having the first name of Ray. This individual impressed Picardo as being one of the executives at SCC since he had his own office in the company while the majority of the other employees did not. As the result of his extensive dealings with Salvatore Briguglio, Picardo learned that Briguglio generally always dealt with management level employees in the generation of "pay offs" for "labor peace". Picardo was unable to recall if this

166-3133-127

Investigation on 1/13/81 at Newark, New Jersey (telephonically) File # NK 161-3133

by SA JOHN MARSHAL HERSH JMH vjh Date dictated 1/20/81

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Exhibit 35

individual had the last name of Donovan. Picardo described this individual having the first name Ray as being a white male, in his mid to late 30's, who had a medium build and stood between 5' 11" and 6' 0" in height, with medium colored hair.

Through discussions with Briguglio, Picardo learned that the "labor peace" which was granted to SCC by Briguglio, involved the use of non-union owners/operators by SCC in lieu of union drivers. The use of non-union owners/operators resulted in a considerable savings to SCC. Picardo further learned from Briguglio that Briguglio also received money from a company operated by Philp "Brother" Moscato as the result of sub-contract work done for SCC by Moscato's company. Moscato gave these monies to Briguglio.

Picardo further learned through Briguglio that William Musto, the Mayor of Union City, New Jersey, assisted SCC in obtaining various contracts.

During approximately 1971 or 1972, Picardo learned through discussions with Sal Briguglio, that Briguglio had received direct cash "pay offs" from SCC in exchange for "labor peace" afforded SCC on a "big Port Authority job".

Picardo further related that "pay offs" for "labor peace" on job sites involving SCC were generated through a company known as Pre Cast Concrete (PCC), a firm located near Lakewood, New Jersey. Picardo believes PCC to be a subsidiary of SCC. These "pay offs" were generated through fraudulent billing for pre cast concrete road dividers which were utilized during the construction of the Long Island Expressway. Picardo's company, Taylor Trucking, delivered these concrete items to the job site on behalf of PCC and SCC. Through discussions which Picardo had with Armand Faugno, Picardo learned that Faugno received "pay offs" out of PCC.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/20/81

Ralph M. Picardo, a protected government witness, furnished the following information:

Picardo advised that subsequent to a request by Special Agent (SA) John Marshal Hersh, he, Picardo, viewed a photograph of Raymond Donovan which was contained on the front page of the New York Times newspaper, dated January 13, 1981. Subsequent to his review of this photograph, Picardo advised the individual depicted in this photograph was the same individual whom Picardo knew to have the first name of Ray, who was employed at Schiavone Construction Company (SCC), Secaucus, New Jersey, and who furnished Picardo with "pay offs" on behalf of SCC. The individual depicted in the photograph appeared older, heavier, and had somewhat darker hair than when Picardo had dealt with him. Picardo additionally recalled the individual as having worn glasses with plastic frames, rather than the metal frames as was depicted in the photograph.

Subsequent to his review of the photograph, Picardo further recalled having once observed this individual in the company of Salvatore Briguglio at Archer's Restaurant, Fort Lee, New Jersey. Picardo recalled this observation having taken place during approximately 1971 or 1972. Tommy Eboli and Armand Faugno were also present along with Brugiglio and this individual. Picardo was not aware of the exact reason for this meeting since he himself was not in attendance. Picardo was present at the restaurant along with a date having dinner.

on 1/13/81 at Newark, New Jersey (telephonically) File # NK 161-3133 - 126

SA JOHN MARSHAL HERSH /vjh Date dictated 1/20/81 Exhibit 36

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1-23-81

Ralph Michael Picardo, currently a protected witness in other matters for the Federal Government was interviewed at FBI Headquarters in the presence of U.S. Department of Justice Strike Force Attorney (Newark, New Jersey) Thomas Weisenbeck, Robert Bunter, Staff Assistant to Senator Orrin G. Hatch and Larry Horowitz, Staff Assistant to Senator Edward M. Kennedy. At the outset of the interview, Mr. Bunter and Mr. Horowitz were advised of the extreme necessity for limiting media coverage of any statements or appearances Mr. Picardo might make to insure his safety. Both acknowledged they understood the necessity for these precautions.

Mr. Picardo advised that he first became associated with the Schiavone Construction Company (SCC), Secaucus, New Jersey, in approximately 1965 or 1966. At that time he was working for Sal Briguglio, a reputed Capo in the Vito Genovese La Cosa Nostra (LCN) family. He was also in association with Armand Faugno and Tony Provenzano also reputed organized crime figures. Mr. Picardo noted that the purpose of the association with Briguglio was to learn the trucking business by working for O.K. Trucking Company, a firm owned silently by Briguglio but operated by an individual named Al Checci who is now deceased. As part of his job, Mr. Picardo was told by Briguglio to take invoices to the SCC. He was told to go to SCC and ask for "Ray" to deliver the invoices and pick up checks. Mr. Picardo recalled that he was told by Sal Briguglio that the "Ray" he was to contact at SCC was an executive of the company. He further recalled that he had no difficulty in locating the person known as "Ray" at SCC he simply asked a secretary where to find "Ray" and he was directed to him. Mr. Picardo noted that "Ray" had what appeared to be a private office while others at SCC did not and therefore, he presumed "Ray" was an executive at SCC. He was not positive, however, that the office he saw was in fact "Ray's" office. It was Mr. Picardo's recollection that the office that he believed to be "Ray's" was "up a flight of stairs." He described the SCC offices to be in what appeared to be a remodeled residence on Patterson Plank Road, at the end of the street, across from a ready mix concrete company. Mr. Picardo could offer no specific description of what he believed to be "Ray's" office. He described "Ray" as being 5 feet 11 inches to 6 feet tall, about 35-40 years of age (at that time), having a medium frame, dark brown hair, and wearing

on January 15, 1981 at Washington, D. C. File # 161-15093

SA John M. Hersh
by SA Anthony Adamski, Jr./rap Date dictated January 20, 1981

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Exhibit 37

glasses that might have had plastic rims. He could recall no singular distinguishing or identifying marks or characteristics for "Ray."

Mr. Picardo stated that he made deliveries to SCC about 10 times over a period of approximately one year. He stated of these 10 occasions, he dealt directly with "Ray" on only 3 or 4 occasions. He stated his dealings with "Ray" were brief and only took enough time for "Ray" to hand him an envelope. He advised they never developed a personal relationship during these contacts. Mr. Picardo recalled that he would deliver blank invoices for truck leases or rentals and would receive from "Ray" or his representative an envelope which would contain a check drawn on the SCC bank account made out to O.K. Trucking or XYZ Leasing in the amount of approximately $500.00. Mr. Picardo stated he knew this was incorrect because O.K. Trucking only had 6 trucks and they were all occupied on a daily basis delivering lamp shades. Therefore, they could not be rented or leased to SCC and the approximately $500.00 payment to O.K. Trucking from SCC was actually a payment for no services rendered. Mr. Picardo stated that on occasion the check he received from SCC would be made out to XYZ Leasing which was a dummy company.

After approximately his second delivery to SCC, Mr. Picardo recalled he was told by Sal Briguglio that the checks he received from SCC were paying for SCC "Labor Peace." Which he understood to mean that SCC could use nonunion labor on some occasions without union disturbance. The fact that SCC could use nonunion labor on certain jobs would be a financial saving for SCC. Briguglio also told Mr. Picardo that the orginal extorting of SCC to obtain "labor peace" had been begun by Armand Faugno, who is now believed to be dead, but his body has not as yet been located. Mr. Picardo stated Faugno kept records of these transactions which have been seen by Mr. Picardo, the last time being in the possession of Sal Briguglio in approximately 1972. Mr. Picardo pointed out that Sal Briguglio was killed in a mob slaying in New York and the whereabouts of these records are unknown and probably impossible to locate.

Mr. Picardo stated very few people knew of his relationship with SCC and those that did are now either dead or in jail and would be uncooperative. He named some of those persons still alive and in jail as Tony Provenzano, Steven and Thomas Andretta. He indicated these people were aware of his duties and relationship with SCC because they shared in the profits made from the extortion of "Labor Peace" money in New Jersey. Mr. Picardo stated he only sold "Labor Peace" to SCC, but he knew that others had to be also selling "Labor Peace" because that was the only way you could operate in the construction business in the State of New Jersey.

Mr. Picardo advised that SCC was known in the construction community as being the only construction company in the State of New Jersey and if you also were in the construction business then you were a subcontractor to SCC. He said the record will show that SCC had no labor problems and received public contracts through the influence of a man he believed to be a state senator by the name of Musto, who was LCN oriented, and was the SCC connection in getting state contract awards.

Subsequent to Mr. Picardo's relationship with SCC, he recalled he was told by Sal Briguglio that SCC was making direct cash payoffs to him and that he was receiving these payoffs from "Ray, the boss of Schiavone." He recalled this information was furnished to him in late 1969 or early 1970. Mr. Picardo advised it was his belief that SCC paid for "Labor Peace" mentioned earlier by Briguglio, for the construction on the Port Authority landfill in 1971 or 1972 which subsequently became the Newark Airport.

At approximately the same time, Mr. Picardo recalled being told by Briguglio that the Muscato Contractors were an LCN run operation and were subcontractors to SCC frequently as a means of assuring "Labor Peace."

Mr. Picardo stated in 1968 he was in part ownership of the Taylor Trucking Company in New Jersey. His partners were Sidney Cohen and John Picone. He described them as operating a flat bed hauling company used primarily to haul precast concrete slabs to a SCC site. The name of the company Taylor was hauling for was Precast Concrete. Mr. Picardo recalled that at the same time he was the sole owner of Coastal Trucking, 3711 Dell Avenue, North Bergen, New Jersey. Mr. Picardo stated that Taylor Trucking would often haul the same load of precast concrete to the Schiavone site as often as 20 times receiving payment for the haul on each occasion. He stated he would be paid directly by Precast Concrete as would Armand Faugno who was selling "Labor Peace" at that time to Precast Concrete. The money to make these payments was obtained from the over, payments by SCC to Precast Concrete for goods not received. It was Mr. Picardo's opinion that there was no way the personnel at SCC could not be aware this was going on because of the volume of the expeditures and the shortage of goods. In addition to Mr. Picardo's co-owners in Taylor Trucking, he said Mike Gretechin, who currently lives in Utica, New York, was an employee of Taylor Trucking and might be able to corroborate what he had said if Gretechin can be located.

Mr. Picardo also recalled that in 1971 or 1972 he was at Archers, a restaurant in Fort Lee, New Jersey, and a "wateringhole for teamsters" when he saw the person he recognized as "Ray" from SCC sitting at a table with Tommie Eboli, head of the Vito Genovese LCN family and Sal Briguglio. Mr. Picardo said he did not know the purpose of their association and he could not tell if it was business or social. He advised that several days subsequent to observing "Ray" at Archers he was told by Sal Briguglio that the person he, Picardo, had seen in the company of Briguglio and Eboli was "Ray, one of the executives from SCC."

With regard to his personal association with "Ray" from SCC Mr. Picardo stated he only saw him briefly on three or four occasions during the course of a year approximately 14 or 15 years ago. He never knew what "Ray's" last name was and he never saw "Ray" place any checks in the envelopes he picked up. However, when he heard a news broadcast indicating President-Elect Reagan had named a Cabinet member who had been an officer in SCC he knew the person had to be "bad" because SCC is "bad." Subsequently, when asked by an FBI Agent to view a photograph in the newspaper of Secretary of Labor designate Raymond J. Donovan, he did and positively identified him as the "Ray" he had received envelopes from at SCC in 1965 or 1966. Mr. Picardo stated there was absolutely no doubt in his mind about this identification.

Mr. Picardo was asked if he had heard anything about a fire that destroyed some of the records of SCC in 1971 and he replied that he had no specific information or knowledge of that fire.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/20/81

Ralph M. Picardo, a protected government witness, was contacted in an effort to determine if he, Picardo, was in fact certain that the individual having the first name of Ray, whom Picardo dealt with a Schiavone Construction Company (SCC) wore glasses at the time Picardo had his dealings with this individual.

Picardo advised that he is unable to recall specifically, but to the best of his recollection the individual wore glasses at the time Picardo had his dealings with him. Picardo specifically noted that the face depicted in the photograph on the front page of the New York Times on January 13, 1981, is in fact the same individual whom Picardo dealt with at SCC.

Investigation on 1/19/81 at Newark, New Jersey (telephonically) File # NK 161-3133 -125

by SA JOHN MARSHAL HERSH JMH vjh Date dictated 1/20/81

Exhibit 38

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EXHIBIT NO. 18

FEDERAL GOVERNMENT

Assistant Attorney General
Office of Legislative Affairs

January 14, 1981

Director, FBI
by Francis M. Mullen, Jr.

1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

RAYMOND J. DONOVAN

Attached herewith is a letterhead memorandum and letter directed to Senator Orrin G. Hatch regarding additional information which has been developed concerning Mr. Donovan.

Enclosures (2)

6

:bam (8)

2- ENCLOSURE

APPROVED:

Director
Exec AD-Adm.
Exec AD-Inv.
Exec AD-LES

161-15043-40

NOT RECORDED

15 DEC 10 1981

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Director's Sec'y

MAIL ROOM ☐

January 14, 1981

1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D. C.

Dear Mr. Chairman:

Reference is made to my letter dated January 7, 1981, which furnished you information concerning Raymond J. Donovan. Additional information has been developed concerning Mr. Donovan and in view of your prior request, a letterhead memorandum concerning this information is enclosed.

If additional information is developed, you will be advised.

Sincerely yours,

William H. Webster
Director
by Francis M. Mullen, Jr.

Enclosure

1 - Assistant Attorney General (Enclosure)
Office of Legislative Affairs

Hand delivered to DOJ.
1-14-81

8

[illegible]A:bam (8)

NOTE: The information contained in the attached LHM was developed from a Federally protected witness who has provided reliable information in the past and was interviewed by our Newark Division. A copy of the LHM is being furnished to Fred F. Fielding, Conflict of Interest Counsel, Office of the President-elect. Witness's name is Ralph Michael Picardo.

161-[illegible]3-40

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MAIL ROOM ☐

ENCLOSURE

January 14, 1960

RAYMOND J. DONOVAN

A protected Government witness, who has provided reliable information in the past and has furnished valuable testimony in three successful prosecutions, advised on January 13, 1981, that he became involved with the Schiavone Construction Company (SCC), Secaucus. New Jersey, in late 1967 or early 1968. This witness stated he visited SCC on fifteen to twenty different occasions to pick up payments for 'labor peace' in the guise of billings for truck rental which never took place. This witness stated he delivered the Bills and received payment from an individual whom he identified as Raymond Donovan.

Q What that says is -- it says, "A protected government witness, who has provided reliable information in the past and has furnished valuable testimony in three successful prosecutions, advised on January 13, 1981, that he became involved with the Schiavone Construction Company, (SCC), Secaucus, New Jersey, in late 1967 or early 1968. This witness stated he visited SCC on fifteen to twenty different occasions to pick up payments for 'labor peace' in the guise of billings for truck rental which never took place. This witness stated he delivered the bills and received payment from an individual whom he identified as Raymond Donovan."

Now, for what reason did this letter go out over your signature -- or should I say this memorandum -- excuse me, the letter, too, the letter from Director Webster by you?

A I would normally sign out a letter on behalf of Director Webster if he were absent from Bureau headquarters or from the city.

Q I see. This is a true copy of the letter you sent me plus the face memorandum plus the Raymond Donovan memorandum?

A Yes, it appears to be a true copy.

Q Okay.

Now, normally -- you indicated the word "normally." But what about in this case?

A I would have to check records to see that he was absent but normally I would not sign something on the Director's behalf unless he were absent.

Q Did you, since Picardo surfaced at this point, did you assume a more active role in the investigation at that point?

A I did, Senator Hatch.

Q Okay.

Now, you stated you were providing this information in response to the Committee's prior request. Now, isn't that correct?

A It says that --

Q And the prior request you referred to was this Committee's request of December 31, 1980, which was listed as Exhibit 8 in the record, is that correct?

A I do not recall which prior request we were referring to.

Q But it could have been the December 31st letter from Senator Kennedy and myself, is that right?

A That is correct.

Q Was it your intent to give us this additional information before the Executive Session of the Committee scheduled to vote on the Donovan nomination on January 15, 1981, or were you even aware that the Committee was scheduled to vote on his confirmation --

A I was not aware of that --

Q On January 15, 1981?

A I was not aware.

Q The letterhead memorandum you provided this Committee referred solely to the allegations made by Mr. Picardo, isn't that correct?

A That is all that is contained on this letter memorandum.

Q You made no mention of the matters in the Monroe-Adamski internal memorandum of January 12, 1981?

A That is correct, Senator.

Q For what reason did you withhold that bit of information from our Committee? Was there any reason for doing so? Or wouldn't you think that we would be entitled to that information as well?

A I can't say there was any reason considered to withhold information. I don't know if I can accept --

Q Why didn't you give us -- why didn't you give us that information as well, the January 12th --

A I may not have recalled at the time, but from knowledge I have obtained since, and again I think it would be best -- this can best be answered by Mr. Adamski who was involved in the day-to-day interaction and who had oral contact with the staffers and the --

Q So Mr. Adamski should be able to answer the question why you would send us this information pertaining solely to

Mr. Picardo and yet not give us the startling information that we now have exhibited in Exhibit No. 13, the memorandum dated January 12, 1981?

A I cannot speak for Mr. Adamski, but there was the prior January 12th letterhead memorandum and it would appear that that item was already covered and would have assumed the Committee already had the other material.

Q So, in other words, you assumed that we probably had the January 12th information?

A I can't say that I recall that at the time this letter was signed out, but, like I said, information has come to my attention since. I am assuming now.

Q You are assuming now --

A Yes.

Q -- that you assumed then that we had this information of January 12th?

A That is correct.

Q You can see what bothers us because if Picardo had not surfaced on January 13, 1981, we would have gone ahead and marked out Mr. Donovan out of the Committee because the hearing of January 12, 1981, was, in my opinion, basically uneventful, and I think in the opinion of most members of the Committee. We would never have known anything about the January 12th memorandum or any of the information contained therein which I think you would have to agree is somewhat startling.

MR. OLSON: Are you asking the witness to characterize it, Senator, because you are expressing your point of view?

SENATOR HATCH: Yes, I am expressing my point of view.

BY SENATOR HATCH:

Q But wouldn't you agree that this information in here is serious and very important information, the January 12, 1981, memorandum?

MR. OLSON: The other part of the problem with your question that I have a problem with is that it speculates with respect to what may or may not have happened, and it deals with facts that did not occur. The Committee did have another hearing with respect to this witness.

BY SENATOR HATCH:

Q Well, we did, but only because Picardo had surfaced. Had Picardo not surfaced, we would have gone ahead with markup on the 15th, marked Mr. Donovan out, probably confirmed him, and never known about the information, the serious allegation that are made in the January 12, 1981, memorandum.

MR. OLSON: I don't necessarily agree with whether they would or would not have ever known about those allegations, and that is why I say it concerns me that --

SENATOR HATCH: Well, we would not have known before January 15th because we certainly didn't get this memorandum until a long time after that. In fact, it was in June of 1982, as I recall.

MR. OLSON: Well, I am simply making an observation that we are dealing in the realm of speculation.

SENATOR HATCH: I don't think we are.

BY SENATOR HATCH:

Q Let me ask you this, Mr. Mullen:

Do you consider the information in this January 12, 1981, memorandum to be serious in nature and do you consider these allegations to be serious?

A I consider this memorandum to contain important information.

Q Serious information, isn't it? You would consider this serious information pertaining to anybody who is investigated or --

A Could be characterized as serious also, Senator.

Q Now, was there any discussion, to your knowledge, as to whether the information in the January 10, 1981, teletype to be furnished to the Committee prior to the Executive Session of the Committee?

A I cannot recall any such discussion.

Q Do you know if there is any internal memoranda reflecting -- reflecting this or any other discussion about this?

A None that I prepared or am aware of.

Q Would it be fair to state that if Picardo had not surfaced on January 13, 1981, and the January 15, 1981, Executive Session of the Labor and Human Resources Committee had gone forward, that the Committee would never have been advised of the information in the January 10, 1981, interview or teletype?

A It is a difficult question for me to answer, Senator Hatch, because I just do not know what contact was had by other individuals involved, namely those on the transition team or Mr. Adamski. But for me personally --

Q As far as you were concerned, you would not have --

A I would not have been the individual to disseminate it.

Q Were there any conversations or writings, including memos, teletypes or any other method of communication about withholding the information from the Committee, to your knowledge, and I am specifically using the word "withholding"?

A Not to my knowledge.

Q Is it fair to say if Mr. Picardo had not surfaced on January 13, 1981, that this Committee never would have gotten into any of the organized crime allegations concerning Mr. Donovan and/or his company?

MR. OLSON: I just simply make the observation again, Senator, that it calls for speculation.

BY SENATOR HATCH:

Q Well, let me limit it to would not have surfaced before January 15, 1981.

MR. OLSON: Again it calls for speculation. You are asking the witness, who is under oath, to speculate.

SENATOR HATCH: If he knows.

BY SENATOR HATCH:

Q I am just asking you to tell me what you best knowledge is. Do you know?

A I don't know what information would or would not have surfaced. I am aware, Senator Hatch, that when th. Picardo allegation surfaced, it elevated things to a more serious level. It started things happening, so to speak.

Q See, what bothers us on the Committee, when this surfaced, the memorandum, dated January 12, 1981, listed as Exhibit 13, which the Bureau received by teletype on January 10, 1981, we felt that that should have elevated it to a more serious condition and to a more serious state, and yet we were the last to be informed about these allegations which I have to admit I characterize as serious.

Let me give you an illustration. Picardo involved, to a large degree, occurrences that occurred back in the 1960's, early seventies. This memorandum involved very current allegations. It would seem to me that as important as

Picardo was, this is even more important.

Would you agree with me on that or not?

A I am reluctant to categorize them in that manner. They were all important.

Q You would have to say the memo was pertinent to our investigation, to our examination of the Donovan confirmation?

A Yes, I would say that.

If I could elaborate, Senator Hatch, I did mention yesterday that I at a supervisory level would really look for a couple of items, and those are that the information was disseminated and that the allegations were being looked into.

Q This memorandum covers matters pertaining to the alleged allegations or, should I say, the alleged associations of Mr. Donovan with organized crime figures through a partner, Mr. Magrini, and Jopel.

And in addition, I think it is fair to say that the memorandum does say that the information was corroborated by independent interviews and confidential sources. Is that correct?

It would be on the second page, under Raymond J. Donovan, second paragraph, last sentence. Do you see that?

A I see the second paragraph --

Q Excuse me. I have got you mixed up. Let me give you another -- let us mark as Exhibit 19 a letter from Charles P. Monroe to Mr. Fielding which is dated January 12, 1981 that has a second page sheet dated January 12, 1981, entitled Raymond J. Donovan.

(Exhibit No. 19 was marked for identification.)

BY SENATOR HATCH:

Q Mr. Monroe in his letter to Mr. Fielding says:

> "Reference is made to our letter dated January 5, 1981, which furnished you the results of an investigation concerning Mr. Raymond J. Donovan. Transmitted herewith is a supplemental summary memorandum containing the results of additional

EXHIBIT NO. 19

#19

1 - Mr. Schulte
1 - Mr. Drake

January 12, 1981

BY LIAISON

Hand carried to OPE 1-12-81 AM

Honorable Fred F. Fielding
Conflict of Interest Counsel
Office of the President-elect
1726 M Street, Northwest
Washington, D. C.

Dear Mr. Fielding:

Reference is made to our letter dated January 5, 1981, which furnished you the results of an investigation concerning Mr. Raymond J. Donovan. Transmitted herewith is a supplemental summary memorandum containing the results of additional investigation conducted in this matter.

It is noted, that the investigation of Schiavone Construction Company, Secaucus, New Jersey, is an ongoing investigation and is not anticipated to be completed in the near future.

Sincerely yours,

Charles P. Monroe
Assistant Director

Enclosure

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161-15093-37

NOT RECORDED

15 DEC 10 1981

RETURN TO MR. DRAKE, ROOM 5158

January 12, 1981

RAYMOND J. DONOVAN

The information in this summary memorandum supplements the information contained in a summary memorandum dated January 5, 1981.

A review of the files of the New York Division of the FBI, indicates Mr. Donovan, through his position with Schiavone Construction Company, Secaucus, New Jersey, has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources.

One confidential source described Mr. Donovan as a heavy drinker and alcoholic, however, stated there has been no close association between the source and Mr. Donovan in the past year.

It is noted that none of the information available indicates any criminal wrongdoing on the part of Mr. Donovan.

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RETURN TO MR. DRAKE, ROOM 5158

investigation conducted in this matter.

"It is noted, that the investigation of Schiavone Construction Company, Secaucus, New Jersey, is an ongoing investigation and is not anticipated to be completed in the near future."

And then this would be the attached page dated January 12, 1981, entitled Raymond J. Donovan, second paragraph says:

"In review of the files of the New York Division of the FBI indicates Mr. Donovan, through his position with Schiavone Construction Company, Secaucus, New Jersey, has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources."

You are aware of that?

A I am.

Q There are a total of four paragraphs in this Raymond J. Donovan description with an errata at the bottom. Is that correct?

MR. OLSON: The errata at the bottom was added subsequently.

SENATOR HATCH: The errata was added by I think it was added by the Department.

MR. OLSON: Yes.

BY SENATOR HATCH:

Q Let me just get this clarified. It is my understanding that the errata was not part of the original document sent to Mr. Fielding but that wasn't even communicated to the White House until January 11, 1982. That is what it says -- excuse me, June 11, 1982.

MR. OLSON: I think that is correct, Senator. I don't know precisely the date. But I do know --

SENATOR HATCH: That says that right at the end of the errata.

MR. OLSON: We accept that and that time frame is probably correct in terms of transmitting it in that form.

BY SENATOR HATCH:

Q Does Mr. Mullen know one way or the other?

A No.

Q Now when you were Assistant Director, Mr. Mullen, what, if any, responsibility did the Assistant Director of the Criminal Investigative Division have relating in any way to Title III overhears?

Let me give you my understanding. Overhears would be; one, at the insistence of the U.S. Attorney; two, at the insistence of the FBI field; three, the concurrence of the U.S. Attorney and field office; four, subject to approval or disapproval of the FBI, considering, among other matters, the significance of the case, particularly of organized crime and the manpower needs required to maintain the overhear.

Now did you have anything to do with Title III overhears as the Assistant Director?

MR. OLSON: Do you mean Title III wiretaps?

SENATOR HATCH: Sure.

THE WITNESS: Senator Hatch, let me make sure I understand your question. You are asking what responsibility does the Assistant Director of the Criminal Investigative Division have with regard to applying for a wiretap?

BY SENATOR HATCH:

Q Or anything regarding Title III overhears or wiretaps.

Let me make it more specific. Were you involved in the decisions relating to the Maselli taps, wiretaps, at any time and what role, if any, did you play in the so-called Maselli wiretaps?

A I cannot recall.

Q Did you play any role in ending the wiretaps in July 1979?

A In ending the wiretaps?

Q Right.

A I did not.

Q Well, you were Assistant Director. What, if any, responsibility did the Assistant Director have if the subject of an ongoing investigation involved a Federal official, whether elected or appointed? Did you have any responsibility or any obligation or did you act in any manner regarding whether the overhears involved an elected official or officials?

A I really don't understand the question. I could become involved in many different ways. If there were an ongoing investigation --

Q With regard to the Maselli wiretaps, it is my understanding that there were numerous elected officials who were involved in the overhear of Maselli and his associates, or the various wiretaps of Maselli and his associates. What, if anything, did you have to do with any of the decisions made with regard to those elected officials?

MR. OLSON: Excuse me, Senator. Your question -- do you mean by your question that names of those persons occurred --

SENATOR HATCH: During the overhears.

MR. OLSON: During the telephone conversations, if that is what they were, or that they were participants to the telephone conversation?

SENATOR HATCH: Could be both. I don't know. I haven't read the Maselli transcripts nor have I heard the tapes. But I have heard there were numerous elected officials dm 6 mentioned on the Maselli tapes, one way or the other, through overhears, through conversations with or about them.

BY SENATOR HATCH:

Q Did you have anything to do with that?

A When the investigations involve a prominent public official, there may be briefings on a timely basis of high-level bureau officials because of the sensitivity of such investigations. But with regard to whether or not there will be prosecution of these officials, that is a determination that is made normally by the local United States Attorney or strike force attorney.

Q I see. But while you were Assistant Director, what, if any, responsibility did you as Assistant Director have if the subject of the ongoing investigation involved the State or local or national official, whether elected or appointed? Did you have any involvement or any obligations with regard to the ongoing investigation?

A No direct involvement, Senator Hatch. I am having a difficult time with the question because I have a role in most every investigation that is maybe a very limited role, that of a supervisory type of activity.

Q O.K. In the investigation conducted after January 14, 1981, what role did you play?

A In the investigation of the special inquiry case?

Q Yes, in the Donovan matter. Who did you coordinate and supervise, etc.?

A I had no direct role. The investigation was coordinated by the Special Inquiry and Civil Rights Section. My role would have been one of, in the Director's absence, as I had signed out one letter as you saw, to approve material for transmittal to the Department, to the transition team, to the Committee. But as far as supervising or directing investigative activities, I had no role.

Q In 1981, as I understand it, there were about 475 agents assigned full-time to the SPIN Unit. Now I get that from testimony on March 17, 1980 by Mr. Groover who was Inspector Deputy Assistant Director who testified I think in your presence before the House that there were 475 positions. Is that correct?

MR. OLSON: That was in 1980?

SENATOR HATCH: That was in 1980.

BY SENATOR HATCH:

Q So there were approximately 475 agents assigned full-time to the SPIN Unit. Is that correct?

A Senator Hatch, I don't know how many are assigned exactly but that would be awfully, awfully high. I just do not believe we have 475 agents to conduct special inquiries. That may be 475 positions, perhaps, including --

Q That may be positions --

Q -- including clerical.

Q Yes, it may include personnel. That sounds more logical.

A That would be more logical.

Q Did you rely solely on the SPIN Unit to conduct the continuing applicant investigation of Mr. Donovan?

A No. I am aware that in this case, because of some of the allegations that did come up, that there was some reliance on the Organized Crime and I can recall one occasion on the Public Corruption Units.

Q I see. As I read your prepared testimony on March 17, 1980 to the House Committee, the gist of it seemed to be that the object of a SPIN investigation is to resolve any nonfinancial allegations concerning the applicant. Is that correct?

A That is correct.

Q Okay.

What do you mean by the term "resolve any allegations" -- or what did you mean?

A Well, we determined --

Q That means you are trying to verify --

A What was true or false --

Q So you are trying to verify the information involved. Is that correct?

A That is right.

Q Is that right?

A I said yes, that is right.

Q But an applicant investigation is not a criminal investigation, right?

A That is right, Senator.

Q Okay.

Agents prefer to do -- I think it would be safe to say that agents prefer to do criminal investigations, is that correct?

A It would be safe to say that, and I can speak from personal experience.

Q Okay. I guess we could all say that.

Now, are many of the agents that conduct these applicant investigations less experienced, would you say, than the agents who are conducting the criminal investigations?

For instance, don't you use House applicant investigations as a way to train new agents?

A It would depend on the nature of the applicant investigation. When there is an investigation involving a high level government official, we often assign some very experienced agents to that case.

Q The reason I ask that question, because you testified back in 1980 that, "In many offices we do put our younger agents, our newer agents, on this type of work as a means of learning to investigate, learning to interview, and learning their way around the city."

Which would indicate that the agents that are assigned to the applicant investigations are less experienced and it is a method of helping to teach them and helps them to learn.

MR. OLSON: May the witness have the context of that testimony?

SENATOR HATCH: That is the House report, page 250.

THE WITNESS: Senator Hatch, as I indicated, it would be important as to the type of applicant investigation. The FBI hires many support personnel, stenographers and clerical type personnel. These are young people who are just finishing high school, and they are not very complicated investigations. This is the type of investigation I am referring to. I know when we have a prominent or a high level appointee, often experienced agents are pressed into service to conduct key interviews and so forth.

BY SENATOR HATCH:

Q Did you use any organized crime investigators in the -- from the December through the January 5th phase of the investigation in the Donovan matter, or were these basic applicant investigations?

A I do not know the backgrounds of the agents who were involved.

Q I think you would have to concede that in this investigation it was necessary to interview criminal informants. We would all agree with that, right?

A That is right.

Q And do agents from the SPIN Units interview criminal informants?

A When we refer to the SPIN Unit, we are talking about headquarters and agents in that unit normally would not conduct any investigation. They supervise investigative --

Q Well, most applicant investigations simply do not talk to criminal informants, it is my understanding. Is that correct?

A As a general rule, that would be correct, in one of our larger field offices. But in a smaller office, it is possible that an agent would be conducting applicants and criminal investigations and may, on occasion, speak to an informant.

Q Why don't we take a five-minute break? We have been going for an hour, an hour and 55 minutes. Let us take a five-minute break and start back in again at 9 o'clock and go another 20 minutes or so. Then we will be finished for the day. I think we are making pretty good headway.

(Short recess.)

BY SENATOR HATCH:

Q Mr. Mullen, let me go to the January 23rd report.

Now, as I understand it, you signed off on the January 23, 1981, report, which we will mark as Exhibit No. 20.

(Exhibit No. 20 was marked for identification.)

BY SENATOR HATCH:

Q Did you review a draft of that report?

A May I see that one, Senator?

Q Sure.

Now, your initials, as I understand it, are on the cover page.

A Yes, I signed off on this report.

Q So you reviewed that draft?

A I did.

Q You reviewed it.

Did you make any changes to it?

A I cannot recall.

#20

EXHIBIT NO. 20

Assistant Attorney General
Office of Legislative Affairs

January 23, 1981

Director, FBI

FEDERAL GOVERNMENT

1 - Mr. Steel
1 - Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

RAYMOND J. DONOVAN

Attached is a letterhead memorandum and letter to Senator Orrin G. Hatch containing additional investigation regarding Mr. Raymond J. Donovan and the Schiavone Construction Company, Secaucus, New Jersey. Please forward this information to the Committee.

Enclosures (2)

161-15042-64

NOT RECORDED
15 DEC 10 1981

2 - ENCLOSURE

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DEC 14 1981
MAIL ROOM

hand delivered to ADAG Bob Keuch 1/24/81 by SAs Schulte and Adamski; sign out for DOJ by him. Ted

- Mr. Steel
- Mr. Mullen
1 - Mr. Monroe
1 - Mr. Bruemmer
1 - Mr. Schulte
1 - Mr. Adamski

January 23, 1981

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D. C.

Dear Mr. Chairman:

The enclosed memorandum contains additional investigation conducted on Mr. Raymond J. Donovan and the Schiavone Construction Company, Secaucus, New Jersey.

Sincerely yours,

William H. Webster
Director

Enclosure

1 - Assistant Attorney General (Enclosure)
Office of Legislative Affairs

JPS:bam (9)

NOTE: Prepared to furnish results of additional investigation conducted regarding Mr. Donovan and the Schiavone Construction Company. Being forwarded to Senator Hatch through Office of Legislative Affairs of the Department of Justice. Copy also being furnished to Office of President-elect. Fred Fielding of Office of President-elect has been orally briefed regarding the contents of the enclosed memorandum.

Enclosure To Memo Te-03A,003 3/23/81

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APPROVED:

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ENCLOSURE

U.S. Departme Justice

Federal Bureau of Investigation

Washington, D.C. 20535

January 23, 1981

RAYMOND J. DONOVAN

The FBI instituted an investigation of Raymond J. Donovan with a check of the central records of the FBI, and the files of the Identification Division by name only, and no pertinent information was developed concerning him. A check of indices in the FBI Field Office in Newark, New Jersey, disclosed no pertinent information on Donovan. The indices of the New York Office were checked on Mr. Donovan and no pertinent information was developed. The check did disclose that the Schiavone Construction Company (SCC), Secaucus, New Jersey, which is partially owned by Mr. Donovan, is involved in a current FBI investigation under the Federal Racketeer Influenced and Corrupt Organization (RICO) Statute wherein records of SCC were subpoenaed by a Federal Grand Jury, but Mr. Donovan was not subpoenaed. SCC is also listed among numerous others as the subject of an investigation under the Labor Management Relations Act of 1947 and RICO Statute. This investigation is based upon allegations that a union president has misused the pension and welfare fund and received extensive kickbacks for approving loans and awarding "sweetheart" contracts. To date, there is no information to indicate any involvement of Mr. Donovan in this matter. This information was forwarded in a communication to the Conflict of Interest Counsel of the President-elect on January 5, 1981.

On January 12, 1981, in another communication, the FBI advised the Conflict of Interest Counsel of the President-elect that the New York Division of the FBI obtained information that Mr. Donovan, through his position in SCC, had social and business ties with organized crime figures. The New York Division developed information between January 8 through January 10, 1981, through sources, that the SCC, in which Mr. Donovan is an Executive Vice President, is "mobbed up." One source indicated the upper management of SCC is closely aligned with organized crime elements through its contacts with Jopel Construction headed by William Masselli, who is an alleged self-admitted "soldier" in an organized crime group. This source alleges Mr. Donovan is acquainted with organized crime figures through Masselli on a business and social basis.

None of the New York sources was able to provide any information to show any specific criminal misconduct on the part of Mr. Donovan.

Ralph Michael Picardo, currently a protected witness in other matters for the Federal Government, was interviewed at FBI Headquarters on January 15, 1981, in the presence of U. S. Department of Justice Strike Force Attorney (Newark, New Jersey) Thomas L. Weisenbeck; Robert Hunter, Staff Assistant to U. S. Senator Orrin G. Hatch, and Larry Horowitz, Staff Assistant to U. S. Senator Edward M. Kennedy. At the outset of the interview, Mr. Hunter and Mr. Horowitz were advised of the necessity for adequate security precautions for any appearance Mr. Picardo might make to insure his safety.

Mr. Picardo advised that he first became associated with the SCC, Secaucus, New Jersey, in approximately 1965 or 1966. At that time he was working for Sal Briguglio, a reputed organized crime figure. He was also in association with Armand Faugno and Tony Provenzano, also reputed organized crime figures. Mr. Picardo noted that the purpose of his association with Briguglio was to learn the trucking business by working for the O.K. Trucking Company, a firm owned secretly by Briguglio but operated by an individual named Al Checci, who according to Picardo, is now deceased. As part of his job, Mr. Picardo was told by Briguglio to deliver invoices to SCC, ask for "Ray" and pick up the checks. Mr. Picardo recalled that he was told by Sal Briguglio that the "Ray" he was to contact at SCC was an executive of the company. He further recalled that he had no difficulty in locating the person known as "Ray" at SCC. He simply asked a secretary where to find "Ray" and he was directed to him. Mr. Picardo noted that "Ray" had what appeared to be a private office, while others at SCC did not and, therefore, he presumed "Ray" was an executive at SCC. He was not positive, however, that the office he saw was, in fact, "Ray's" office. It was Mr. Picardo's recollection that the office that he believed to be "Ray's" was "up a flight of stairs." He described the SCC offices to be in what appeared to be a remodeled residence on Patterson Plank Road, at the end of the street, across from a ready-mix concrete company. Mr. Picardo could offer no specific description of what he believed to be "Ray's" office. He described "Ray" as being 5 feet 11 inches to 6 feet tall, about 38-40 years of age (at that time), having a medium frame, dark brown hair, and wearing glasses that might have had plastic rims. He could recall no singular distinguishing or identifying marks or characteristics for "Ray."

Mr. Picardo stated that he made deliveries to SCC about ten times over a period of approximately one year. He stated, of these ten occasions, he dealt directly with "Ray" on only three or four occasions. He stated his dealings with "Ray" were brief and only took enough time for "Ray" to hand him an envelope. He advised they did not develop a personal relationship during these contacts. Mr. Picardo recalled that he would deliver blank invoices for truck leases or rentals and would receive from "Ray," or his representative, an envelope which would contain a check drawn on the SCC bank account made out to O.K. Trucking or XYZ Leasing in the amount of approximately $500.00. Mr. Picardo stated he knew that was incorrect because O.K. Trucking only had six trucks and they were all occupied on a daily basis delivering lampshades; therefore, they could not be rented or leased to SCC and the approximately $500.00 payment to O.K. Trucking from SCC was actually a payment for no services rendered. Mr. Picardo stated that on occasion the check he received from SCC would be made out to XYZ Leasing, which was a dummy company.

Sometime after his second trip to SCC, Mr. Picardo recalled he was told by Sal Briguglio that the checks he received from SCC were paying for SCC "labor peace," which he understood to mean that SCC could use nonunion labor on some occasions without union disturbance. The fact that SCC could use nonunion labor on certain jobs would be a financial savings for SCC. Briguglio also told Mr. Picardo that the original extortion of SCC to obtain "labor peace" had been started by Armand Faugno, who is now believed to be dead, but his body has not been located. Mr. Picardo stated Faugno kept records of these transactions which have been seen by Picardo, the last time being in the possession of Sal Briguglio in approximately 1972. Mr. Picardo pointed out that Sal Briguglio was killed in a mob slaying in New York and the whereabouts of these records is unknown and they are probably impossible to locate.

Mr. Picardo stated very few people knew of his relationship with SCC and those that did are now either dead or in jail and would be uncooperative. He named some of those persons still alive and in jail as Tony Provenzano and Steven and Thomas Andretta. He indicated these people were aware of his duties and relationship with SCC because they shared in the profits made from the extortion of "labor peace" money in New Jersey. Mr. Picardo stated that during this period he only "sold labor peace" to SCC, but he knew that others had to be also selling "labor peace" because that was the only way you could operate in the construction business in the State of New Jersey.

Mr. Picardo advised that the SCC was known in the construction community as being the only construction company in the State of New Jersey, and if you also were in the construction business, then you were a subcontractor to SCC. He believed the record will show that SCC had no labor problems and received public contracts through the influence of a man he believed to be a state senator by the name of Musto who was the SCC connection in getting state contract awards.

Subsequent to Mr. Picardo's alleged relationship with SCC, he recalled he was told by Sal Briguglio that SCC was making direct cash payoffs to him, Briguglio, and that he was receiving these payoffs from "Ray, the boss at Schiavone." He recalled this information was furnished to him in late 1969 or early 1970. Mr. Picardo advised it was his belief that SCC paid for "labor peace," mentioned earlier by Briguglio, for the construction of the Port Authority landfill in 1971 or 1972, which subsequently became the Newark Airport.

At approximately the same time Mr. Picardo recalled being told by Briguglio that the Moscato Contractors was run by organized crime elements and were subcontractors to the SCC, frequently as a means of insuring "labor peace."

Mr. Picardo stated in 1968 he was in part ownership of the Taylor Trucking Company in New Jersey. His partners were Sidney Cohen and John Picone. He described them as operating a flatbed hauling company used primarily to haul precast concrete slabs to an SCC site. The name of the company Taylor was hauling for was Precast Concrete. Mr. Picardo recalled that at the same time he was the sole owner of Coastal Trucking, 3711 Dell Avenue, North Bergen, New Jersey. Mr. Picardo stated that Taylor Trucking would often haul the same slab of precast concrete to the SCC site as often as twenty times, receiving payment for the haul on each occasion. He stated he would be paid directly by Precast Concrete, as would Armand Faugno, who was selling "labor peace" at that time to Precast Concrete. The money to make these payments was obtained from the overpayments by SCC to Precast Concrete for goods not received. It was Mr. Picardo's opinion that there was no way the personnel at SCC could not be aware this was going on because of the volume of expenditures and the shortage of goods. In addition to Mr. Picardo's co-owners in Taylor Trucking, he said Mike Gretschin, who currently lives in Utica, New York, was an employee of Taylor Trucking and might be able to corroborate what he said if Gretschin can be located.

Mr. Picardo also recalled that in 1971 or 1972 he was at Archers, a restaurant in Fort Lee, New Jersey, and a "watering hole for teamsters", when he saw the person he recognized as "Ray" from SCC at a table with Tommie Eboli, who is reported to be an organized crime figure, and Sal Briguglio. Mr. Picardo said he did not know the purpose of their association and he could not tell if it was business or social. He advised that several days subsequent to observing "Ray" at Archers, he was told by Sal Briguglio that the person he, Picardo, had seen in the company of Briguglio and Eboli was "Ray, one of the executives from Schiavone," With regard to his personal association with "Ray" from SCC, Mr. Picardo stated he only saw him briefly on three or four occasions during the course of a year, approximately fourteen or fifteen years ago. He never knew what "Ray's" last name was and he never saw "Ray" place any checks in the envelopes he picked up. However, when he heard a news broadcast indicating President-elect Reagan had named a cabinet member who had been an officer in SCC, he knew the person had to be "bad" because SCC is "bad." Subsequently, when asked by an FBI Agent to view a photograph in the newspaper of Secretary of Labor-designate Raymond J. Donovan, he did and said he was positive he was the "Ray" he had received envelopes from at SCC in 1965 or 1966. Mr. Picardo stated there was no doubt in his mind about this identification.

Mr. Picardo was asked if he had heard anything about a fire that destroyed some of the records of SCC in 1971 and he replied that he had no specific information or knowledge of that fire.

On January 16-17, 1981, an investigation was conducted by the Newark Division of the FBI at SCC, Secaucus, New Jersey, which included a review of all records for SCC, Schiavone Equipment (SE), and Schiavone Buckley, a joint venture (SBJV), for the period 1965 through 1970. It is noted the records were located in five separate locations, including two tractor-trailors, the basement of the main office building, a one-car garage and the loft area of SCC maintenance garage building. The records reviewed were filed in no logical order or sequence and were scattered throughout all five locations. The Newark Division assigned twenty-six Special Agents, including three Special Agent Accountants, of whom one was a certified public accountant, to conduct the necessary investigation at SCC. A total of approximately twenty cash disbursement journals, 90,000 cancelled checks, and an equal number of invoices were reviewed for SCC, SE, and SBJV, expending over 200 Agent man-hours.

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All available records for the period 1965 to 1970 were reviewed. The following records could not be located: SCC cash disbursement journal for the period July, 1965, to September, 1965, and cancelled checks for the period January, 1965, and September, 1970, to December, 1970, and SE cancelled checks for the period January, 1965, to December, 1970, and cash disbursement journal for the period October to December, 1970.

No information was located during the review of the aforementioned companies' records which identified transactions with O.K. Trucking, North Bergen, New Jersey; XYZ Leasing; Al Checci and Sal Briguglio, except the following:

The records indicate a sales invoice from O.K. Trucking, 410 Mountain Avenue, Springfield, New Jersey, dated August 28, 1970, for use of a front-end loader for twenty-four hours. This invoice was paid by SBJV on December 21, 1970, in the amount of $442.50. The original amount of the invoice was $542.50, but was reduced for down time of the equipment.

These records also indicate four additional invoices dated between August, 1969, and September, 1969, in amounts ranging from $202.50 to $592.50, for truck rentals from O.K. Trucking, Springfield, New Jersey. These invoices, which were also reduced in amount by SCC, were further supported by individual truck tickets and were paid by one check from SCC dated October 8, 1969.

The check issued by SBJV was signed by R. Schiavone and Robert R. Buckley, and endorsed by O.K. Trucking, John O'Connell and Nancy O'Connell. The check issued by SCC was signed by A. Schiavone and endorsed by John O'Connell.

Interviews of SCC executive personnel, all of whom were employed by SCC during the period 1965 to 1970, failed to identify anyone who had knowledge of any activity on the part of Mr. Donovan regarding allegations of payoffs for "labor peace." All further stated there has never been an SCC officer or office employee with the first name Ray, other than Ray Donovan.

The only other "Rays" recalled were a former mechanic and dock worker, both of whom are physically dissimilar to Mr. Donovan, and a former construction worker who is about twenty-eight years of age at present. When each of the SCC officials was interviewed, he stated he could not recall any SCC business contact with Sal Briguglio, Al Checci, Ralph Picardo, William Musto, O.K. Trucking or XYZ Leasing. Four officials stated several of the names were familiar to them for various reasons but not in the context of SCC business. None of the officials identified photographs of Ralph Picardo or Sal Bruguglio when displayed to them in sets of six photographs. Similar inquiries of Mr. Donovan's secretary, and display of photographs to her, brought negative responses, except she thought that the company may have done business with Al Checci.

It is noted that several of the SCC officials stated SCC is sometimes confused with an entirely unrelated scrap dealer company known as Schiavone-Bonomo (SB), located in Jersey City, New Jersey. For example, United States mail for SB is delivered to SCC in error and bank statements, Internal Revenue inquiries and legal process papers have all been delivered to SCC instead of SB.

The investigation revealed that since 1968 Mr. Donovan's office has been located off the main street entrance of a split-level building, down five to six steps, and to the left of a large secretarial area. Mr. Donovan's office is located at the end of a row of executive offices and has an exit door. Interview of Mr. Donovan's secretary determined that the exit door is never used and if it were to be used in any fashion, she would be in a position to see or hear it open. Prior to 1968 Mr. Donovan's office was located on the street level and to the immediate left as one entered a large room.

Interviews conducted with appropriate officials of the Secaucus, New Jersey, Fire Department, determined that on December 7, 1971, a fire occurred in a two-story frame structure owned by SCC. Fire officials stated that since the cause of the fire was most probably a hot plate left on by an employee and since no traces of accelerants had been found at the scene, the fire would not appear to have had a suspicious origin. A former lieutenant of the Secaucus, New Jersey, Fire Department stated he was positive only drafting materials and blueprints were burned and that no personnel or business records or bills were involved in the fire.

Records of the Newark Division of the FBI indicate William V. Musto, State Senator of the State of New Jersey, is a subject of a current FBI investigation under the Racketeer Influenced and Corrupt Organization Statute. State Senator Musto is also the current Mayor of Union City, New Jersey, and Chairman of the New Jersey State Judiciary Committee. This investigation is predicated upon allegations that State Senator Musto and others accepted monies to influence them in their official capacities as public officials in Union City, New Jersey, to purchase a privately financed building in Union City for use by Union City. The investigation further involves allegations that State Senator Musto and other public officials accepted monies from an Orlando construction company for additions and alterations to two Union City high schools. A cooperating witness in this investigation advised that, to his best recollection, he may have met Ray Donovan of SCC on one occasion, but he did not implicate Mr. Donovan in any criminal activities nor did he associate Mr. Donovan with William V. Musto. This investigation is an ongoing investigation and it will not be completed in the near future.

Records of the Newark Division of the FBI do not disclose any reference to a Moscato Contractors or any connection between Moscato Contractors and SCC or Raymond Donovan.

During the current inquiry it was determined that John Picone and Carmon Nastas are owners of P and N Trucking, North Bergen, New Jersey. John Picone stated Sidney Cohen, now deceased, was never a partner in P and N Trucking, but was a partner in Taylor Trucking with Ralph Picardo. Picone stated that from 1968 until late 1969, Taylor Trucking rented space from P and N Trucking and that Ralph Picardo worked closely with Salvatore Briguglio while with Taylor Trucking. According to Picone, Taylor Trucking left the P and N Trucking space in late 1969 and Picone has had no contact with anyone other than Sidney Cohen since that time. Picone stated he was unaware of any "protection" payment or false billing by Taylor Trucking.

Michael Anthony Gretchin, Utica, New York, stated he worked part time from 1968 to 1969, and full time from 1970 through 1973, as a driver for Ralph Picardo. Gretchin stated Picardo would tell people he was a public relations man for a teamsters union, when in fact Picardo was a go-between for either Taylor Trucking, XYZ Trucking, O.K. Trucking or Coastal Trucking and Union officials, Sal and Gabe Briguglio and Tony Provenzano. Gretchin stated the aforementioned trucking companies were all ghost companies. According to Gretchin, every Friday Picardo would have Gretchin drive him around to meet with certain individuals. Gretchin would wait in the car while Picardo met these people and Picardo would return to the car with an envelope which Gretchin believed contained cash because of the size of the envelopes.

According to Gretchin, he would drive Picardo to the teamster union hall later the same Friday night with a bag which Gretchin believed contained cash. Gretchin recalled driving Picardo to several restaurants and locations but not to SCC. Gretchin stated he had seen Ray Donovan's picture on television, and it looked slightly familiar to him. He stated he recalled Picardo mentioning Donovan's name but he could not recall the circumstances. He stated Picardo usually referred to the individual at SCC as "Ray" but on at least one occasion he used the name Donovan. Gretchin stated he did recall Picardo saying "You don't fool around with the Schiavone Company, you leave them alone." Gretchin stated he did not recall having ever met Donovan and does not recall any meeting between Picardo and Donovan.

Gretchin stated, that for bookkeeping purposes, he was paid for driving Picardo by being a ghost driver for loads that were not shipped. The ghost loads were on Coastal Trucking and concerned precast concrete items for the Long Island Expressway.

Gretchin stated a (first name unknown) Moran of Utica, New York, and a Gerald Paladino of near Indiana, Pennsylvania, also drove part time for Picardo during this period of time.

Obert D. Moren, Utica, New York, was interviewed and advised he occasionally drove Ralpb Picardo on errands in approximately 1970. He advised he was unaware of any illicit activity on the part of Picardo or his associates. He stated that Schiavone Construction Company and Raymond J. Donovan are unknown to him.

Gerald Benedict Paldino was located and interviewed at Ligonier, Pennsylvania, and confirmed he worked as a part-time driver for Ralph Picardo since 1965, and as a full-time driver in 1972 - 1975. Mr. Paldino recalled Mr. Picardo had many unrecalled ghost companies indicating several were merely Post Office boxes. Mr. Paldino advised he was paid in cash or by checks drawn on Coastal Trucking, which he recalled to have problems cashing. Mr. Paldino was unable to recall driving Mr. Picardo to SCC in Secaucus, New Jersey, or verify that Mr. Picardo ever met Mr. Donovan. He does not recall Mr. Picardo ever mentioning Mr. Donovan's name or contacts with anyone at SCC. Mr. Paldino advised Mr. Picardo knew everyone in Secaucus, New Jersey, and always seemed to be "sticking them with phoney invoices," mostly on Coastal Trucking. He recalled phoney invoices for concrete slabs used for curbs on the Long Island Expressway and for the construction of a building at Lake Success, New York. He further recalls driving Mr. Picardo to the teamster union hall regularly to deliver the "tuna bag," but he was reluctant to discuss the source or the disposition of the money he presumed was contained therein. He was also reluctant to discuss Mr. Picardo's relationship with Sal and Gabe Briguglio and Tony Provenzano and legitimate companies, explaining he had personally been through too much in this regard.

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Mike Gretchin was reinterviewed and stated it was common knowledge in New Jersey in the trucking business that ghost loads were being billed for the Long Island Expressway. However, he stated he could not furnish any specific information in this regard because he never saw any paper work or payoffs relating to them. He did recall that Mr. Picardo held up the delivery of the cornerstone for a building for Hunter College because he was not being paid. He furnished the names of three other drivers who worked for Picardo who might have some information regarding these ghost loads. He stated he could furnish no information concerning these ghost loads and any relationship they might have with Mr. Donovan.

Information was furnished to the FBI by the staff of the Committee on Labor and Human Resources that, during the time Pete Weber was in charge of Local 825 of the operating engineers, he had an arrangement with the SCC whereby only one lead engineer, a man named Ed Cole, was used to cover eight or ten different jobs. The contract allegedly required that each job have a lead engineer. The SCC allegedly saved $6,000 a week by not having to use the extra lead engineers. It was alleged that Mr. Donovan was aware of this arrangement.

The staff also advised that in September and October of 1980 the SCC helicopter flew Mr. Reagan and Mr. Bush around the States of New Jersey, New York, and Pennsylvania, and that this cost, approximately $1,000 to $1,200 an hour, was not reported as a campaign contribution.

The source of the allegation concerning the SCC's use of lead engineers who wishes his/her identity protected was contacted by the FBI and restated the allegation. The source could not provide any specific information as to Mr. Donovan's knowledge of this arrangement but stated it was his/her opinion that Mr. Donovan, in his position as Executive Vice-President of SCC, would have had to be aware of this arrangement. The source stated that he/she had no documents to support his/her opinion and doubts that any such documentation exists.

A review of the records of the SCC's helicopter use disclosed Schiavone billed the Reagan-Bush campaign headquarters for helicopter usage in September, 1980, for $9,179.94 and October, 1980, for $8,142.00. Both invoices were marked paid. Bank statements for Schiavone Equipment Corporation, October 31, 1980, disclosed deposit of $9,179.94, and for November 28, 1980, deposit of $12,637.68. Included in the $12,637.68 deposit was a check in the amount of $8,142.00.

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The staff advised they received information that Thomas Dinorsica, also known as Tommy Adams, was on the SCC payroll when he was in Lewisburg Prison from 1968 through 1970. The Newark Office of the FBI checked payroll records at SCC from 1965 through 1970 and no record was found on Dinorsica or Tommy Adams. This check covered IRS documents, employment ledgers and W-2 forms.

The staff advised that an anonymous caller on January 15, 1981, said that Jay Grey (phonetic), a former purchasing Agent for the Schiavone Company, who is now working for the Perini Association, told all of the vendors on the 63rd Street Subway job site that they had to contribute to the Reagan campaign. The source also said that all of the men on the job site had to go to a rally that was held for Reagan and were told that if they did not go their paychecks would be docked. On 1/23/81, the information possibly bearing on Federal Election Law violations was discussed with Robert Richter and Craig Donsanto, Departmental Attorneys, Public Integrity Section, Department of Justice. Richter stated that the allegations do not constitute specific information to trigger the Special Prosecutor provisions of the Ethics in Government Act of 1978 should Mr. Donovan be confirmed and sworn in as Secretary of the Department of Labor. Mr. Donsanto, Director, Election Crimes Branch, Department of Justice, advised that the information does not, under normal Department of Justice policy, constitute a sufficiently factual predicate to merit an investigation and none is warranted.

Additional investigation at SCC determined that between 1967 to 1969 the position of "truck coordinator" was created to handle the procurement and assignment of trucks to various job sites when they were needed on a temporary basis. This position was held by an individual named Mike Goldrich.

Mike Goldrich was interviewed in Delray Beach, Florida, and advised he does not know Ralph Picardo, but he was in charge of truck rentals for SCC during the period between 1967 and 1973. He stated truck rentals were handled by him and no one went to Ray Donovan for rental or payment.

Joseph Scerbo, a former SCC employee from 1957 through 1974 or 1975, advised he had been charged with maintenance, record keeping and appropriate utilization of SCC equipment. This part of SCC was responsible for the utilization of all equipment and, when necessary, rentals of equipment from other companies; however, such rentals were unusual. He recalled that Mr. Donovan had no input concerning rentals. He did not recognize the names Ralph Picardo or Sal Briguglio and was unable to identify their photographs. Other names involved in this inquiry were also unknown to him.

Al Cocchi, also known as Al Checci and Al Cohen, who Mr. Picardo believed was deceased, contacted the Newark Office of the FBI on January 20, 1981. He advised that during the 1950's and part of the 1960's, he operated O.K. Trucking. He recalled doing some work, but not much, for SCC during the 1950's but none during the 1960's. He stated Ralph Picardo was employed by him at O.K. Trucking for a year or year and a half, exact dates not recalled, but he and Mr. Picardo did not get along. He said he had no knowledge of any payments by SCC for "labor peace" and he stated he never made payoffs to Sal Briguglio. He advised he never heard of XYZ Leasing and the name Armand Faugno was not familiar to him. According to Mr. Cecchi, records for O.K. Trucking no longer exist. In Mr. Cecchi's opinion, Mr. Picardo is a liar.

John O'Connell, whose name appeared as an endorsement on checks made payable to O.K. Trucking by SCC, was located in Neptune City, New Jersey. He advised that from 1967 to 1971 he operated O.K. Trucking at 410 Mountain Avenue, Springfield, New Jersey. He stated he had some business with SCC and recalls one rental of a front-end loader. He said he may have also rented dump trucks. He advised he has never met Ray Donovan and stated he did not know Ralph Picardo, Armand Faugno or Al Cecchi.

On January 21, 1981, a source of the New York Office advised that he/she had read recent accounts concerning Ray Donovan in the newspaper. He/She stated that [redacted] had informed the source that he, [redacted], had picked up money from "Ray Donovan of the construction company," which he took to [redacted] The specific purpose of the money was not stated but the source advised the implication of payoff was obvious. According to this source [redacted], a union official who was convicted in the past and had to relinquish his union post.

[redacted], New York City, was interviewed and admitted being a "bagman" for [redacted] and picking up money from a Ray Donovan approximately twelve years ago. He stated, however, that the Ray Donovan he knows is not the individual being considered for the position of Secretary of Labor because he has seen media photographs of this individual. [redacted]

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In March, 1978, pursuant to a search warrant, the residence and office of Sal Briguglio were searched. A review of five of Briguglio's address books at that time located no reference to Ray Donovan, Ronald Schiavone or SCC.

Ronald Schiavone, President of SCC, during interview, advised that SCC has about 100 nonunion employees on a full-time basis (for example, managerial personnel, office staff and field supervisors). Periodically owner/operators of dump trucks who are nonunion will also be employed. He stated that 99 per cent of SCC work is public work and, therefore, employees are covered by provisions of the Davis-Bacon Act or equivalent state wage laws. These require the payment of salary and fringe benefits to both union and nonunion workers at the prevailing rate, thereby precluding the use of nonunion employees when union employees are available. Labor contracts are negotiated on an industry-wide basis by the State General Contractors Association. SCC does not negotiate individual contracts with individual unions since lengths of contract and terms are set on an industry-wide basis.

According to Mr. Schiavone, on any given job in New Jersey, SCC will deal with six different unions and, in New York, twelve unions. He stated that, as a result of the number of unions with which SCC deals, it is almost impossible for a single union or dissident faction to cause disruption to jobs since other unions would intercede on behalf of the contractor to keep their members working. He commented that the larger the company is the less problems there are with unions on the job.

He stated SCC has had strikes from time to time but these have been industry-wide strikes. SCC will have labor grievances periodically but these are resolved quickly.

Mr. Schiavone has also advised that in 1965 SCC and related firms employed 250 individuals during the winter and 750 during the summer. In 1967 this increased to 500 and 1,150, respectively, with the formation of Schiavone Buckley Joint Venture. This employment level continued until recently when a new joint venture was formed to perform subway construction causing SCC to employ 1,125 to 1,300 persons all year.

In connection with the review of records at SCC, SE and SBJV, the details of which are set forth earlier in this memorandum, some records could not be located. For periods where checks were missing, cash disbursement journal entries were available, except for records at SE for the period from October to December, 1970, wherein neither checks nor cash disbursement journal entries could be located. Similarly, where cash disbursement journal entries were not located, checks for that period were available for review. In addition, invoices for the whole period were available and were reviewed. As a result, the possibility of the checks and invoices in question not being uncovered during the review of these records is considered remote.

Morris Levin, Corporate Counsel, SCC, advised that the following companies are or were part of SCC: Schiavone Equipment Company, Schiavone Building, Schiavone Steel, Schiavone Engineering, Hudson Dry Dock, Colonial Leasing, Livingston Dodge, Lamington River, Reynwood Corporation and Fiddler's Elbow Country Club. In addition, there have been numerous joint ventures entered into by SCC for specific jobs at specific sites throughout the United States.

During an interview with Ronald Schiavone, he said that in 1965 SCC purchased 500 acres of land in Somerset County, New Jersey, as an investment under the name Lamington River Corporation. A decision was made to develop 200 acres of this tract and this was leased by the Reynwood Corporation, which developed the golf course and leased an existing structure on the property to Fiddler's Elbow Country Club, which is owned by its 125 corporate members. Reynwood employs six people in the winter and twenty in the summer as groundkeepers and maintenance employees. The country club employs 50 people in cook, waiter and other positions.

Information concerning a current FBI investigation involving William V. Musto is set forth earlier in this memorandum. Ronald Schiavone, during interview, advised that he may have met Mr. Musto at a gathering but he does not know him. SCC has done no work at Union City where Mr. Musto is the mayor and he added that SCC does not seek municipality contracts.

A review of vendor cards, both active and inactive, at SCC revealed no card for a Moscato. Ronald Schiavone, during interview, advised he has never done business with a Moscato, but if this individual operated a dump site, SCC could have dumped clean fill dirt at the site at no charge. He stated New Jersey law requires two feet of clean fill be used to cover or close a dump site. Therefore, it is a mutually beneficial arrangement for contractors to dump their clean fill loads at such sites.

A Phillip Bernard Moscato, also known as Brother Phillip Moscato, has been reported to associate with organized crime elements. The Newark Office of the FBI has no information indicating his association with a Moscato Contractors or any connection between him and SCC or Mr. Donovan. He reportedly has operated a dump site in the past.

Ronald Schiavone also advised that SCC has done no fill work for the Port Authority at Newark and Elizabeth, New Jersey, since that contract was handled by other contractors. SCC did, however, build several piers at Newark. SCC also had a contract with the State of New Jersey to build an interstate highway near the Newark Airport and SCC was required to fill the land to build up the roadway prior to paving. This was done by SCC and was not subcontracted.

Ronald Schiavone described SCC as a horizontal heavy construction firm which does not do vertical work such as buildings. He stated SCC did not build the Federal Building in Newark. He was aware of no business or contracts with Valentine Electric. A review of the accounts payable ledger cards revealed no payments to Valentine Electric.

Frank Diaco, Secretary, Power Electric, advised that Valentine Electric changed its name to Power Electric in 1974. He has been involved with this company since 1959 and it has never had any dealings with SCC during that time. He advised Valentine Electric had done the electrical work on the Newark Federal Building but said Terminal Construction, not SCC, was the general contractor. He stated SCC was not involved in this construction at all.

Ronald Schiavone stated he could not specifically recall doing business with the Precast Concrete Company. A review of accounts payable ledger cards for the period 1965 to 1970 revealed SCC did $4,001 worth of business with Precast Concrete. Mr. Schiavone said SCC did not have the contract to build the Long Island Expressway but did build the Meadowbrook Parkway on Long Island. No concrete dividers were used during this construction. He further advised that whenever concrete girders are used, all girders are numbered by specification and are paid for based on being installed at the job site. This principle also applies to precast curbing which is paid for by the linear foot. He stated that, under no circumstances, would a company be permitted to bill SCC for inflated delivered materials or duplicate numbered girders.

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A source who requested confidentiality advised that construction work involving precast concrete products was performed by several firms during construction of the Long Island Expressway.

All work east of New York City proper was performed by Clearview Concrete Products Corporation. The source advised Clearview Concrete Products Corporation had gone defunct after Federal convictions in April of 1979 involving frauds connected with sewer construction in Suffolk County, New York.

All work in New York City proper was performed by a firm believed to be Precast Conduit Incorporated. The source could not be certain, however, as to the specific name of the firm.

A thorough search of current and past New York City telephone directories failed to locate any listing under this name of any logical derivation. Numerous firms use the term "Precast" in their name but none starts with the term "Precast." The source had no information concerning Mr. Donovan personally.

In connection with Archer's Restaurant, Fort Lee, New Jersey, information has been reported to the FBI indicating that this restaurant is reputed to be a meeting place for individuals associated with organized crime activities.

Q Did you retain any copies of any of the draft reports that led up to that final report?

A No, I did not.

Q Who actually prepared that report?

A I do not see the initials on the report, Senator, so I cannot answer that question.

Q Okay.

What discussions, if any, were had about what would be included in that report? Did you participate in any or do you know of any?

A I cannot recall participating in any discussions, nor am I aware of any discussions that took place in reference to this report.

Q Okay.

Are there any internal memoranda which pertain to this report or backup, that you know of?

A I don't know what you mean by pertain to. In other words --

Q Helped to create the report?

A Senator, the material in the report had to be based on some other communications, oral or written. So I am sure there are other documents which do relate to this report.

Q Now, it seems to me -- could we see those documents? Would you look, see and find any backup documents there are?

MR. OLSON: We will undertake to look to see what exists, Senator.

BY SENATOR HATCH:

Q Now, it seems to me the best way to put to rest the notion that this Committee had all the information in the January 12, 1981, internal memorandum is to go through each item in that internal memorandum as compared with what the Committee was told in the letterhead memorandum.

When we are referring to the internal memo, we are talking about the January 12, 1981, memo. When we are talking about the letterhead memorandum, we are talking about the January 23, 1981, memo which was sent to the Committee on or about that date.

MR. OLSON: It strikes me, Senator, that that is a process which simply involves comparing two sets of documents --

SENATOR HATCH: That is what we are going to do. So why don't you --

MR. OLSON: And that the documents will speak for themselves with respect to that.

SENATOR HATCH: Well, let us make a record on that. So we know.

For instance, let's entitle this -- let's make two columns in the record.

MR. OLSON: I think this could be done -- I don't mean to presume but it seems to me that this might be done more readily and more quickly in writing.

SENATOR HATCH: Okay.

Why don't I assign, if it is all right, Mr. Flannery and Mr. Sheridan of the Committee staff to sit down with you and Mr. Mullen and agree on the correlations and lack of correlations between the two memorandum? Is that all right?

MR. OLSON: May I suggest this, Senator, that if a document has been prepared or could be prepared that sets in a column by column manner, comparing the two documents, we could respond in writing to that and set forth whether we agree with it or whether we have any differences with it and what those differences were.

SENATOR HATCH: Let me do it my way. Let us go through it and see if you disagree with anything. That way we will be able to get it on the record.

And let me just have two columns. One would be the January 12, 1981, internal memorandum on the left column. The January 23, 1981, memo to the Committee will be on the right. I will list each bit of information by a number and a letter designate.

MR. OLSON: I have to say it is very difficult for the witness to visualize something that is being presented to him orally and you are asking him to visually --

SENATOR HATCH: Well, he has the memoranda there. He can read them.

MR. OLSON: I simply say it is very difficult for any person to do that.

SENATOR HATCH: Well, I understand.

BY SENATOR HATCH:

Q In the internal memorandum, let us call it 1-A, it states that, "Information has been developed as of January 8, 1981, (attached)."

In the January 23, 1981, memo, 1-B, we will call it 1-B, "The New York Division developed information between January 8th through January 10th, 1981."

MR. OLSON: We don't know which page you are referring to.

BY SENATOR HATCH:

Q That is page 1 of the January 23rd memorandum, second paragraph, second sentence, "The New York Division developed information between January 8th and January 10th, 1981."

Now, this memorandum says, "after January 8th," not "as of January 8th."

But the prior, the internal memorandum says "as of January 8, 1981."

Are you with me to this point?

A I am not at this point, Senator Hatch. We are on paragraph 1 of the January 12th?

Q On the January 12th memo, look under details, the

"New York Division advised by teletype, dated January 10, 1981, (attached), that information has been developed as of January 8, 1981 ..."

A I see that.

Q On paragraph 2 of the January 23 memorandum, let us read it from the beginning.

"On January 12, 1981, in another communication, the FBI advised the Conflict of Interest Counsel of the President-elect that the New York Division of the FBI obtained information that Mr. Donovan, through his position in SCC, had social and business ties with organized crime figures."

That is the first sentence.

"The New York Division developed information between January 8 through January 10, 1981, through sources, that the SCC, in which Mr. Donovan is an executive vice president, is 'mobbed up.'"

All I am trying to do is correlate the two. I have read those correctly, haven't I?

A You have read them correctly.

Q Let us go to the second point I would like to make. I refer you to the January 12, 1981 memorandum. It is the last underlined sentence in the second paragraph under "details."

MR. OLSON: It is not underlined in the original.

SENATOR HATCH: Oh, it is not. Let me show you where it is. It starts with -- let me say this.

BY SENATOR HATCH:

Q 2(a):

"Two independent sources of the New York Division have advised that the SCC, in which Mr. Donovan is an executive vice president, is 'mobbed up.'"

That is the first sentence in the second paragraph under "details."

2(b), under the January 23 memorandum says:

"Through sources [number unspecified] that the SCC, in which Mr. Donovan is an executive vice president, is 'mobbed up.'"

You are aware of that?

MR. OLSON: That is correct.

THE WITNESS: No, I do not have brackets.

SENATOR HATCH: I added the brackets myself. The number is unspecified.

BY SENATOR HATCH:

Q In other words, the reason I put in brackets "number unspecified" is because you didn't tell us in the January 23 memorandum. In the January 12 memorandum you did tell us there were two independent sources.

Let us go to 3(a), the third point I am making.

In the January 12 memorandum, it says -- O.K. -- it would be the second sentence in the second paragraph under "details," starting with "One source." Let us read that together.

It says:

"One source indicates that the upper management of the SCC" -- meaning the Schiavone Construction Company -- "is closely aligned with the Vito Genovese family of the LCN through SCC vice president Albert Magrini and its contacts with Jopel Construction headed by William Masselli who is an alleged self-admitted 'soldier'" -- only the word is misspelled. It is spelled s-o-l-i-d-e-r -- "in the Genovese family."

Now in the January 23 memorandum, and I would entitle this 3(b) in our column here, go to the second paragraph. It would be the next to the last sentence where it starts with "One source."

That says:

"One source indicated the upper management of SCC is closely aligned with organized crime elements through its contacts with Jopel Construction headed by William Maselli who is an alleged self-admitted 'soldier' in an organized crime group. This source alleges Mr. Donovan is acquainted with organized crime figures through Maselli on a business and social basis."

Now the difference between the two memoranda is that the January 23 memorandum did not identify the Vito Genovese family which was the same family involved in the HOFEX investigation, the Picardo allegations and the others and there was also no mention of the Schiavone Construction Company vice president Magrini. That is true, isn't it?

MR. OLSON: The documents speak for themselves.

BY SENATOR HATCH:

Q I am asking isn't that true, yes or no?

What I am trying to show here is that the January 12 memorandum was much more detailed than the January 23 memorandum. January 12 didn't mention -- or January 23 didn't mention anything about the Genovese family which was involved in HOFEX and didn't mention anything about Magrini.

A That is true, Senator.

Q Let us go to 4(a).

Now one of the points I would like to make, Mr. Mullen, which I think is important -- and it is always easy in hindsight. I understand. I understand the position you are in and I understand how much easier it is to go back in hindsight and say we should have done this, we should have done that. So keep in mind that I do understand that.

But, see, when you say that he had business and social -- personal business and social ties with underworld figures, it is one thing to say he had them with Vito Genovese family but it is also another thing to say they came through his own vice president, Mr. Magrini. In other words, both of those points were quite important and we didn't have them in the January 23 memorandum or we would have asked very tough questions about those issues and perhaps Mr. Donovan would have been able to answer them. In fact, I believe he would have been able to answer them and, thus, the disservice of having a year and a half of constant badgering in the media might never have occurred. That is one reason why the Committee is so concerned because if, as Mr. Donovan maintains, he has never had these contacts or has -- and that all of these allegations are untrue, then he has been done a great disservice over the last year and a half. That is one reason why it is important that we go through this.

Let us go to the fourth point. Let us go to the January 12 memorandum and I would refer you to -- let us go to the -- let us go to the next to the last sentence under -- in the second paragraph under "details." We will entitle this 4(a).

> "This New York source alleges Mr. Donovan is acquainted with LCN members through Magrini and Masselli on a business and social basis and has in fact traveled from New York to Miami for the 1979 Super Bowl with Masselli and other LCN figures in the construction business."

Now that is what the January 12, 1981 memorandum says.

I would refer you to the January 23, 1981 memorandum. It is the last sentence in the second paragraph of that -- the first page of that memorandum where it says:

> "This source alleges Mr. Donovan is acquainted with organized crime figures through Masselli on a business and social basis."

In other words, the difference between the two, as I see it, is that the January 12 refers to New York. Again, there is no mention of Magrini, his business partner. Again -- in other words, it talks only about Maselli and not his own business partner, Magrini, and it does not make any reference to Donovan's alleged 1979 Super Bowl trip.

We found those things out from the media, as I recall.

MR. OLSON: Senator, the documents speak for themselves as to what is in one and what is in the other.

SENATOR HATCH: I understand, but we are going to go through this anyway.

MR. OLSON: I understand that but your concern, for example, with the reference to the words "New York force" in the January 12 document and the fact that the word "New York" in the sentence you just read was not in the January 23 document but it is in a paragraph which talks about a source which was developed or reported upon by the New York Division of the FBI --

SENATOR HATCH: I understand. What I am saying is that the Committee only had access to the January 23, 1981 document and I just want to point out the differences, for whatever purpose that is. They may not be as significant as some of us may think but I think they are significant.

BY SENATOR HATCH:

Q Let me go to the next point and we will entitled this 5-A and 5-B.

Now, where are we on this?

Okay. Now, the first paragraph of the second page of the January 12, 1981, memorandum -- it says, "Another New York source who is a former employee of the Schiavone Construction Company indicates that Mr. Donovan is an alcoholic and a heavy gambler making bets in the" blankety-blank range. And I put the blanks in there.

I might mention that if you look and read the January 23, 1981, report, 5-B, there is absolutely no mention to the Committee of Donovan's alleged drinking or heavy gambling.

Do you see that?

Now, that may have been a value judgment that was made by someone at the FBI and it may have been a very valid one, as far as I am concerned, because I am not sure that has anything to do with this anyway. It may. All I am trying to do is point out the differences between the --

MR. OLSON: We are accepting your characterization in that case because --

SENATOR HATCH: Well, you can just say that you are accepting what I am saying here. That will make it go quicker.

MR. OLSON: I am accepting your characterization of the January 23rd memo in connection with that because it is 19 pages long and the witness -- you don't want him to review it right now.

SENATOR HATCH: No. So you are accepting it. Okay.

BY SENATOR HATCH:

Q Let us go to the next one.

The next paragraph on page 2 of the January 12th memorandum says, "None of the New York sources was able to provide any information that shows any specific criminal misconduct on the part of Mr. Donovan."

Now, 6-B, and this is quoted verbatim in the January 23, 1981, report to the Committee -- however, it is significant that it does not say the same of SCC, of other officers of SCC.

Let us go to 7-A, the next number. And that is the next paragraph.

It says, "A search of the central files of the FBI, the indices of the New York office and the Organized Crime Information System disclosed one pertinent reference to Mr. Donovan which is a Title III overhear between William Masselli and his son Nat Masselli; which make reference to the fact that Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function."

7-B, there is no mention of the pertinent tape reference, the second alleged social function that Mr. Donovan was alleged to have attended -- or the second alleged social function that Mr. Donovan was alleged to have attended with Mr. Masselli.

[Senator Hatch requested that the following summary be inserted in the record. Bracketed material and underlining supplied by Senator Hatch.]

	1/12/81 INTERNAL MEMO		1/23/81 MEMO TO COMMITTEE
1A	"Information has been developed as of 1-8-81."	1B	"The New York Division developed information between January 8 through January 10, 1981." [Memo says after January 8, not as of.]
2A	"Two independent sources of the New York Division have advised that the Schiavone Construction Company, in which Mr. Donovan is an Executive Vice President, is 'mobbed up.'"	2B	"Through sources [number unspecified] that the Schiavone Construction Company, in which Mr. Donovan is an Executive Vice President, is 'mobbed up.'"
3A	"One source indicates the upper management of the Schiavone Construction Company is closely aligned with the Vito Genovese family of the LCN through Schiavone Construction Company Vice President	3B	"One source indicated the upper management of Schiavone Construction Company is closely aligned with organized crime elements [rather than identify the Genovese family, the same family involved in the HOFEX investigation, the

	Albert Magrini and its contacts with Jopel Construction headed by William Masselli who is an alleged self-admitted 'solider' [sic] in the Genovese family."		Picardo allegations and others] through [no mention of Schiavone Construction Company Vice President Magrini] its contacts with Jopel Construction headed by William Masselli who is an alleged self-admitted 'soldier' in an organized crime group [no mention of the Genovese family]."
4A	"This New York source alleges Mr. Donovan is acquainted with LCN members through Magrini and Masselli on a business and social basis and has in fact traveled from New York to Miami for the 1979 Super Bowl with Masselli and other LCN figures in the construction business."	4B	"This source [no reference to New York] alleges Mr. Donovan is acquainted with organized crime figures through [again no mention of Magrini, his business partner Masselli] on a business and social basis." [The report fails to make any reference to Donovan's alleged 1979 Super Bowl trip.]

5A	Another New York source who is a former employee of the Schiavone Construction Company indicates that Mr. Donovan is an alcoholic and a heavy gambler making bets in the top $5,000 to $6,000 a bet range."	5B	[There is absolutely no mention to the Committee of these matters.]
6A	"None of the New York sources was able to provide any information that shows any specific criminal misconduct on the part of Mr. Donovan."	6B	[This is quoted verbatim in the 1/23/81 report to the Committee.]
7A	"A search of the central files of the FBI, the indices of the New York office and the Organized Crime Information System [OCIS] disclosed one pertinent reference to Mr. Donovan which is a Title III overhear between William Masselli and his	7B	[There is no mention of the "pertinent" tape reference, the second social function that Mr. Donovan was alleged to have attended with Mr. Masselli.]

son Nat Masselli; which make reference to the fact that Mr. Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function."

BY SENATOR HATCH:

Q Now, in your prepared statement before the Committee, Mr. Mullen, you said that "No information of pertinence that is not in our report was developed concerning Mr. Donovan or the Schiavone Construction Company."

Do you remember saying that?

MR. OLSON: He does not have this statement before the Committee before him.

BY SENATOR HATCH:

Q Have you reviewed your statement before you came here?

Do you have a copy of it?

MR. OLSON: He does not have a copy of it.

SENATOR HATCH: Here is a copy of the underlined statement. This is on page 255 of the prepared statement of the Committee report containing your prepared statement where you say, "During this investigation, the FBI also contacted 20 informants and protected witnesses, 12 in New York and eight in New Jersey. No information of pertinence that is not in our report was developed concerning Mr. Donovan or the Schiavone Construction Company."

Do you recall saying that?

THE WITNESS: No.

BY SENATOR HATCH:

Q That is accurate though?

A The statement is accurate.

Q Did you review the report of January 23, 1981, before you testified?

A Yes, I did.

Q Now, I think what we are going to do is quit for the day. But I would like you to do this, Mr. Mullen, before we start again.

When is our next day, Monday? We can't do it Monday. Can we do it Tuesday, 7:30 again? This is the only time I have. I am sorry to do it to you. I live in Vienna also. But I always get down here about this time, a little early.

Now, let me give you some advance information. I think it is important for you to compare the January 23, 1981, report to the Committee with your opening statement to the Committee which would begin on page 254 of the confirmation hearings.

Now, we will mark those minutes as our next exhibits which would be 21, and then we will go into questions pertaining to the differences between the two at that time.

(Exhibit No. 21 was marked for identification.)

SENATOR HATCH: Keep in mind, Mr. Mullen, I am not trying to put you on the spot. All I want to do is resolve this matter. I want to find out why we have these inconsistencies. I want to find out why we didn't get timely reports and there may be very good reasons for that. It may be that there were mistakes made. It may be that some of these things fell through the cracks, as the Director once told me, with regard to the late reports that we got. It may be that in retrospect you would have done it differently. I don't know. It may be that you just plain made some mistakes. By gosh, we are all human.

But I have got to resolve this one way or the other and I think it is in the best interest of the FBI and this Committee and I think the confirmation process, and perhaps future confirmation processes that we do this, even though it is certainly difficult for you and it is really difficult for me. But I think we can get it resolved and I am hopeful that -- I hope we can finish at this next session.

Now, what I would like to do is see if my schedule can be opened up for more than the two hours so that we can finish with you then and then we will go to Mr. Adamski following that.

MR. OLSON: Will other members of the Committee be questioning the witness at the conclusion?

SENATOR HATCH: I don't know. Any member of the Committee can ask questions and I am happy to have questions asked by any staff members of the Committee representing a member of the Committee.

MR. OLSON: I understand that. I was simply asking because while you indicated that it might be possible to finish with Mr. Mullen on Tuesday --

SENATOR HATCH: If it takes longer and other members of the Committee want to ask questions, you bet.

MR. OLSON: I am wondering whether there will be -- will there be other questions by other members of the Committee after you finish?

SENATOR HATCH: I don't know. Do you have any indication from your bosses? Do you have any other questions?

Let the record show that Senator Quayle is here

SENATOR QUAYLE: I think that the Chairman is probably putting his finger on what my concern is. The only thing I want to know is what information was withheld from the Committee and basically why and also what information was given to the White House and not given to the Committee and why. I don't know if we can put that all into a summary and to digest that but that is the question that I have.

SENATOR HATCH: I think we are getting there.

MR. OLSON: Senator, I object to the word "withheld." I understand that that is a characterization that people are making here. The second part of the question talks about what information was given and what information was not given.

SENATOR QUAYLE: Let me ask this. To get the ground rules cleared up, what obligation do you have to give us all information? I mean, do you think you have the right to withhold or not provide us certain information?

MR. OLSON: I am not quarreling with you, Senator. I am objecting to the word "withheld" and I think it would be more productive for us to characterize what information was received, what information may not have been received.

SENATOR QUAYLE: Well, is there an obligation to give us all the information that you have concerning Donovan?

MR. OLSON: Are you talking about a legal obligation? I am not sure what you are talking about.

SENATOR QUAYLE: I am talking about an obligation as to how this institution is supposed to run and how we are supposed to make our decisions as Senators.

SENATOR HATCH: I think what he is saying as an attorney is that they don't believe that they withheld any information. I think we have shown that there was information that was not timely provided. That is what has concerned you as well as me. They would prefer the characterization "not provided." But, you know, I have to be honest with you.

Some of us feel that the information was withheld. Now whether for good reasons or bad, it was withheld. You can object to that term, if you like, but I am not going to prevent any members of the Committee from using that language.

MR. OLSON: I am not suggesting that you should.

MR. HATCH: But you are saying that you feel that you should --

SENATOR QUAYLE: This is not a court of law.

MR. OLSON: We are talking about a witness who is here under oath testifying.

SENATOR QUAYLE: Well, you know, you can interpret "withhold" however you want to. The only thing I am saying is I want to know what information I didn't have or this Committee didn't have as we proceeded with the Donovan investigation. You can you didn't provide it and I will say you withheld it. And then also I want to see what information the White House had with respect to this. Did they have different information than the Committee had and if so, why? That is what I am going to be asking. Maybe you can summarize it in a page or two or five pages or take us two weeks to get the answer. But that is what I want to know and I don't think I am being unreasonable. I think that is what other members of the Committee would like to know too.

SENATOR HATCH: Let me just say for the record, Senator Quayle, that I think we have covered thus far a lot of these matters very clearly. We have three transcripts being prepared, one for the FBI, one for the Committee, any member of the Committee or his designated staff member that can come in and read it on a daily basis and one for me so that I can have it -- be prepared for each day that we do this. I think you would be interested in the transcript of yesterday and today because we have covered a number of the materials that were provided to the White House and not provided to us in a timely fashion, in my opinion.

SENATOR QUAYLE: Well, I think there is a couple of critical dates, the critical dates being when we had the first markup of the Donovan hearings, the second critical date would be the date we had the second markup, and the date we voted on it in the Committee and the date we voted on it on the floor. Those are three fairly critical dates. Now what information did we not have at that particular time?

SENATOR HATCH: I think the record will show that. I think we have made a --

SENATOR QUAYLE: Can we have a summation and also what information the White House had that we didn't have and then we didn't have it.

SENATOR HATCH: You may want to read the record and ascertain for yourself whether I have covered it clearly and if I have not --

SENATOR QUAYLE: What time are you going to meet Tuesday?

SENATOR HATCH: 7:30.

SENATOR QUAYLE: Why do we have to meet at 7:30?

SENATOR HATCH: It is the only time I have got. It is the only time I have to do it and I have made the commitment to be here.

SENATOR QUAYLE: What about to pursue some of the questions. You want to go from 7:30 to 9:30 Tuesday?

SENATOR HATCH: I am going to look at my schedule to see if we can go longer and would you look at yours --

SENATOR QUAYLE: I would imagine we would want to wrap up --

SENATOR HATCH: I would like the next one to be the wrap-up but I have got a lot more questions and if it goes as slowly --

SENATOR QUAYLE: Are you going to start at 7:30 Tuesday?

SENATOR HATCH: We can go off the record.

(Whereupon, at 9:33 a.m the Committee recessed, to reconvene subject to the call of the Chair.)

- - -

CERTIFICATE OF REPORTER

I, Tony Jackubosky, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Tony Jackubosky

Tony Jackubosky, Reporter

CERTIFICATE OF REPORTER

I, Cathy Jardim, reporter, do hereby certify that the testimony of the witness which appears in the foregoing **record** was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said **record** is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this **record** was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Cathy Jardim

Reporter

United States Senate

Committee on Labor and Human
Resources

Washington, D.C.

Tuesday, August 17, 1982
7:40 a.m.
Room 4232, Dirksen Senate
Office Building

RESUMED SWORN RECORD OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
J. Kevin O'Brien, Office of Congressional Affairs, FBI
John A. Mintz, General Counsel, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Harold Gordon, designated staff member of Senator East
Bob Marshall, designated staff member of Senator Denton
Joel Lisker, designated staff member of Senator Denton
James Wolfe, designated staff member of Senator Quayle
Diann Howland, designated staff member of Senator Quayle
Tom Parry, designated staff member of Senator Hatch
Bruce Navarro, designated staff member of Senator Nickles
Michael Forscey, designated staff member of Senator Kennedy
Walter Sheridan, designated staff member of Senator Kennedy
Emily Donovan, designated staff member of Senator Humphrey
Gerald Lindrew, designated staff member of Senator Riegle

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff
Deborah Dahl, Committee Staff

SENATOR HATCH: Let the record show that Mr. Silverman, the special prosecutor, has requested copies of these transcripts of proceeding. Without objection, we will order that a copy of the transcript be delivered each day to Mr. Silberman.

Secondly, without objection, I have a copy of U.S. Department of Justice Office of Legislative Affairs' letter to me from Robert A. McConnell, with a stamp on it of August 17, 1982. Without objection, we will place this letter in the record at this point.

[Material referred to follows:]

COMMITTEE INSERT

(See Exhibit #27)

SENATOR HATCH: We will pick up where we left off, Mr. Mullen, while counsel reads that letter and compares it to the questions we were going to ask you to clarify some matters from last week's record.

MR. OLSON: Mr. Chairman, do you plan on having the persons present identify themselves again?

SENATOR HATCH: I think that is a good idea. Let's start at the back and come all the way around here.

MS. DAHL: Deborah Dahl, with Senator Hatch.

MS. HOWLAND: Diann Howland, with Senator Quayle's staff.

MR. MCCONNELL: Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs, Department of Justice.

MS. DONOVAN: Emily Donovan, with Senator Humphrey's staff.

MR. LISKER: Joel Lisker, with Senator Denton.

MR. WOLFE: James Wolfe, Senator Quayle.

MR. PARRY: Tom Parry, with Senator Hatch.

MS. MULKEY: Barbara Mulkey, with the Committee staff.

MS. EGBERT: Carol Egbert, with the Committee staff.

MR. SHERIDAN: Walter Sheridan, with Senator Kennedy.

MR. OLSON: Theodore Olson, Department of Justice.

MR. FLANNERY: John Flannery, with Senator Hatch.

THEREUPON,

FRANCIS M. MULLEN, JR.

was called as a witness and, having been previously duly sworn by Senator Hatch, was examined and testified further as follows:

SENATOR HATCH: I remind you, Mr. Mullen, you are still under oath.

BY SENATOR HATCH:

Q In your prepared statement before the Committee, Mr. Mullen, you said that, quote: "No information of pertinence that is not in our report was developed concerning Mr. Donovan or the Schiavone Construction Company," unquote

Now, in retrospect, looking back, that was really not accurate at the time. Isn't that correct?

A No, at the time, Senator, I believe it was accurate, unless you can point out something for me to consider to indicate that it was not.

Q Did you review the report of January 23rd, 1981 before you testified, made that statement?

A On January 27th?

Q The report of January--yes, on January 27.

A Did I review the January 23rd report before I testified on the 27th?

Q Yes, on January 27th.

A Senator, I just want to be sure I understand the question. Did I review the January 23rd report before I testified on January 27th? The answer is yes to that.

Q What I would like to do is give you a copy of this January 23rd, 1981 report to the Committee and a copy of your opening statement. Do you have both of those?

MR. OLSON: I have a copy that is in rather convoluted form.

BY SENATOR HATCH:

Q The copy of your statement begins at page 254 of the confirmation hearings. We will put those minutes into the record as Exhibit--it is already in the record as Exhibit 21.

What I would like to point out is--here is a copy of the January 23rd report that you gave to the Committee.

In the January 23rd, 1981 report, in the first paragraph on the third page under Raymond J. Donovan--the page is not marked as the third, I believe. It has got at the top U.S. Department of Justice, Federal Bureau of Investigation, Washington, D.C. 20535, January 23rd, 1981. Then it is captioned Raymond J. Donovan. Are you with me on that?

A I am with you, Senator.

Q Okay. Now, I think it is the second sentence, where it says: A check of the indices of the New York office disclosed that the SCC--meaning Schiavone Construction Company--Secaucus, New Jersey, which is partly owned by Mr. Donovan, is involved in a current FBI investigation under the Federal

Racketeer Influence and Corrupt Organization, RICO, statute wherein records of SCC were subpoenaed by a Federal grand jury, but Mr. Donovan was not subpoenaed, unquote.

MR. OLSON: I think the record should reflect that that quotation from the report contains an ellipsis.

SENATOR HATCH: Explain that to us.

MR. OLSON: I think that you jumped from the commencement of one sentence into--

SENATOR HATCH: Let me read it right out of the report then: "A check of indices in the FBI field office in Newark, New Jersey, disclosed no pertinent information on Donovan. The indices of the New York office were checked on Mr. Donovan and no pertinent information was developed. The check did disclose that the Schiavone Construction Company (SCC), Secaucus, New Jersey, which is partially owned by Mr. Donovan, is involved in a current FBI investigation under the Federal Racketeer Influence and Corrupt Organization (RICO) statute, wherein records of SCC were subpoenaed by a Federal grand jury but Mr. Donovan was not subpoenaed," unquote. That is more correct a quote.

Now, your testimony, which you will find on page 254, the second paragraph, reads as follows, does it not: The records of the Schiavone Construction Company were also subpoenaed by a Federal grand jury in New York in connection with another RICO investigation. This investigation, in part, concerns a fraudulent establishment of a minority business enterprise by certain individuals and the use of services of a subcontractor who is an alleged minority business enterprise by Schiavone Construction Company. Neither Mr. Donovan nor Schiavone Construction Company is the target of this investigation.

BY SENATOR HATCH:

Q Is that the way that reads?

A That is correct, Senator.

Q Did either of these statements, the one in the January 23rd report or your statement before the Committee, relate to an investigation of Jopel?

A I believe that both, to the best of my knowledge, refer to the so-called TUMCON investigation, of which Jopel would have been a facet.

Q Would you spell the TUMCON investigation?

A It's T-U-M-C-O-N.

Q You think they both refer to that?

A That is correct.

Q What does that have to do with the Jopel investigation?

A I don't say it was the Jopel investigation. I believe the investigation involved William Masselli, and at some point he may have been a principal in the Jopel Company.

Q Was Masselli the subject of investigation at this time, by the January 27th, 1981, hearing date?

A Yes.

Q Was SCC the subject of investigation at that time?

A To my knowledge, SCC was not the subject of investigation.

Q Well, it was referred to as an investigation, wasn't it, in this RICO investigation? I mean, SCC was referred to as part of this invest--

A SCC was referred to in the investigation, yes.

Q Now, if they were investigating Jopel, then it seems to me that SCC would have benefited because of the establishment of Jopel as a minority business enterprise, or an MBE. Isn't that correct?

A I can't answer that with any definition, Senator Hatch.

Q Was Magrini the subject of investigation? The vice president of Schiavone Construction Company.

MR. OLSON: In January of 1981.

SENATOR HATCH: Right.

THE WITNESS: I do not know that he was or was not.

BY SENATOR HATCH:

Q Has [illegible] ever been?

A I do not know.

Q Was DiCarolis the subject of investigation?

A Senator, I am not that familiar with the investigation so I cannot give you a definitive answer.

Q Was anybody at SCC the subject of investigation, including Mr. Donovan, at that time, prior to January 27th, 1981, on or before that date?

A I do not believe that they were.

Q Was the investigation of Jopel, also the Title III overhear, was that mentioned in the January, 23rd, 1981 report?

A The investigation of Jopel? Jopel was a facet--

Q The Title III overhear, was that mentioned in that January 23rd, 1981 report? Actually, it wasn't, was it?

A It was not.

Q Okay. About how frequently was SCC mentioned on the Masselli tapes? The Schiavone Construction Company, that is.

A SCC was mentioned. I cannot tell you with what frequency.

Q Is that something you could provide for us, at least the frequency?

A Yes, that is something we can provide.

Q Will you do so?

A Yes, sir.

SENATOR HATCH: Mr. Olson, you will get that provided to us?

MR. OLSON: As I understand it, Senator, that is something that is referred to in the special prosecutor's report. I have no knowledge of it other than that.

SENATOR HATCH: It is not referred to in the special prosecutor's report, to our knowledge.

MR. OLSON: May I consult with the witness?

SENATOR HATCH: Yes.

(Off the record)

SENATOR HATCH: Can I have those who have come in since who have not identified themselves for the record do so?

MR. MINTZ: John A. Mintz, General Counsel, FBI.

MR. GORDON: Harold Gordon, Senator East.

MR. O'BRIEN: J. Kevin O'Brien, Office of Congressional Affairs, FBI.

MR. NAVARRO: Bruce Navarro, with Senator Nickles.

SENATOR HATCH: Go ahead.

MR. OLSON: Yes, Senator, we will endeavor to provide that to the Committee as soon as we can.

SENATOR HATCH: Okay. It is my understanding that, as I read the transcript, the special prosecutor's transcript--it is a pretty big report--the only mention was made of how many times Mr. Donovan was on the tapes. So, I would like to know how many times Schiavone Construction Company is on the tapes.

BY SENATOR HATCH:

Q Do you know how frequently Mr. Magrini was mentioned on the Masselli overhear tapes?

A I do not.

Q Could you provide us with that?

MR. OLSON: We will do the same.

SENATOR HATCH: The frequency, right.

BY SENATOR HATCH:

Q Was SCC, SCC's attorney, Magrini, Donovan, or anyone else at SCC notified when the Title III overhear was terminated?

A I do not know, Senator.

Q Do you know who was notified?

A I do not.

Q How would anyone reading the report know--reading the report that we gave to you--know about the information concerning Jopel and Masselli in the report have anything to do with the grand jury investigation of a fraudulent minority business enterprise and Schiavone Construction Company? There is just no way they could have, is there?

A From this report, Senator Hatch?

Q From that report.

MR. OLSON: I think it is fair to say, Senator, that it is a 19-page report that has been put in front of him now. He has not reviewed it this morning.

SENATOR HATCH: I did ask you to review it before you came back today. But all I am saying is, there is nothing in there that would indicate to anybody that the information about Jopel and Masselli in the report had anything to do with the grand jury investigation of a fraudulent minority business enterprise and Schiavone Construction Company.

BY SENATOR HATCH:

Q Do you agree with that or don't you?

A I agree with that, Senator.

Q Did you review your prepared statement that we have been referring to this morning with anybody before you gave it, over at the FBI or anywhere else, for that matter?

A That statement is prepared for me. I am sure that I would have reviewed it with someone, most likely those in the Special Inquiry Unit. But in what format that review took--

Q Mr. Mullen, in other words, you are a supervisor. So, other workers who were more familiar with the case helped to prepare the report for you to deliver before the Senate investigating committee. Is that correct?

A That's right, Senator.

Q That is a fair way of saying it?

A Yes, it is.

Q But you did not personally prepare the report.

A That is correct.

Q Therefore, did you spend much time reading it or reviewing it before you came? Or did you basically just read it over once and come in and give it?

A Oh, I would have read it over several times before I appeared before a congressional committee and perhaps would have asked some questions. But, due to the passage of time, I can't recall now what questions I would have asked.

Q But it is logical that it may be difficult for you to put all the details and the matters together just from reading the report, since there were additional details that were left out of the report. Is that correct?

In other words, I can't blame you if you don't fully understand all the details, since you were not doing the personal investigation.

A Well, I would have been aware of what I was going to present to the Committee, but I--

Q But you may not have been aware of--

A --of all of the background material used. No, I would not have been aware of all that.

Q Okay.

Who did prepare the report for you? Do you know?

MR. OLSON: The opening statement?

SENATOR HATCH: Yes, the statement that we are referring to here this morning. It has been marked as Exhibit No. 21? Or is that the whole transcript? Well, the report given, starting at page 254 in Exhibit 21.

MR. OLSON: That was the witness' prepared statement on January 27.

SENATOR HATCH: Right.

BY SENATOR HATCH:

Q Who prepared that for you, if you know? Who worked on preparing it?

A Mr. Adamski played a role in preparing it. But, as to any others from our congressional liaison office having a role, I am just not certain of their identity.

Q Can you remember with whom you went over the report down at the FBI, Justice, or anywhere else, for that matter?

A I cannot remember at this time.

Q Is it not true that you kicked it around with a number of members of the Justice Department as well as the FBI?

A I do not recall discussing with any members of the Justice Department. If there are questions on the part of Justice, normally that is handled through our congressional liaison. I would most likely have discussed it with members of the Criminal Investigative Division and those involved in the special inquiry.

Q Now, we have established as a fact that the summary provided Mr. Fielding at the White House on January 12th, 1981 was not provided to the Committee. That is right, is it not?

MR. OLSON: You mean prior to the January 27 hearing?

SENATOR HATCH: Right. Well, prior to 1982, except insofar as the report of January 23rd, 1981 contains some of the information.

THE WITNESS: Senator Hatch, I did not furnish it to the Committee, nor am I aware of the FBI furnishing it to the

Committee.

BY SENATOR HATCH:

Q Didn't that summary that was furnished to Mr. Fielding state that Mr. Donovan had, quote, "close personal and business ties with known La Cosa Nostra (LCN) figures"?

MR. OLSON: The witness does not have that document in front of him.

SENATOR HATCH: This has been marked as Exhibit No. 19.

THE WITNESS: Yes, Senator.

BY SENATOR HATCH:

Q Okay, it does say that.

Despite what was said to Fielding, your report of January 23rd, 1981 to the Committee left out the word, quote, "close," unquote. Isn't that correct?

MR. OLSON: If you say so, Senator. He has not got it.

SENATOR HATCH: Well, I am sure that is so. But, nevertheless, I would like to have him be sure also.

MR. OLSON: Are you referring to a particular page in the report?

SENATOR HATCH: Well, the same area of language. It leaves out the word close.

BY SENATOR HATCH:

Q Is that correct?

A That is correct, Senator Hatch.

Q Isn't it a fact that the summary memorandum provided Fielding on January 12th, 1981 said that the information of, quote, "close personal and business ties," unquote, with LCN was, quote, "corroborated," unquote?

A That word is used in there, yes, Senator.

Q During your testimony before this Committee on January 27th, 1981, you were asked the following questions, and you gave the following responses. Now, let's see if we can find out where you are. On page 257, I asked you this question: "Your unit has investigated every one of these wiretaps and the information and data on them. And is it correct to say you have found absolutely nothing pertaining to the Schiavone Construction Company?" Your answer was: "That is correct, Senator. In each case when we do have court-authorized wiretap, we must record the identity of every individual or company referred to. We maintain those records known as overhears, and we located no reference to Mr. Donovan or Schiavone Construction Company."

Is that correct?

A That is right.

Q Then I asked: "Neither Mr. Donovan nor Schiavone has been mentioned in any of these investigations?" Mr. Mullen: "That is correct," unquote.

Is that right?

A That is right, Senator.

Q Now, was the testimony you gave to this Committee on January 27th, '81 truthful and accurate, to the best of your knowledge, that you located, quote, "no reference to Mr. Donovan or Schiavone Construction Company," unquote, in, quote, "any," unquote, investigation?

A I have to come back in the context of our discussion and go to the prior page. Now, if we are referring to a general statement, I can now say at this time that the name Schiavone did come up in investigations. But, going back to the day of my testimony and referring to our prior discussions before the testimony when we came up and visited with you, if we are referring to the New Jersey activity, the statement is correct. If the question is broadened--

Q You thought the questions referred to just New Jersey then, New Jersey activity?

A That is correct, Senator.

Q At the time. But, looking at it in retrospect, you realize the question was more broad than that? But you understood it to be referring just to New Jersey?

A You are advising me now the question is more broad. Then, yes, I understand now the question to be more broad than that.

Q Isn't it a fact that you mentioned the New Jersey overhears at the outset of your testimony in order to avoid discussing the Masselli tapes themselves?

A No. That was not my primary purpose, Senator Hatch. With regard to the New Jersey wiretaps, this was not a question, really, put to me by any Senator or any staff member. This was information volunteered by the FBI. Our intention in providing that information was to further assist the Committee, this is something else to help them make up their mind.

Q Isn't it a fact, Mr. Mullen, you just really didn't know at that time whether Schiavone or Donovan were mentioned on the Masselli tapes anyway?

I would not blame you if you did not know because you didn't review those tapes personally.

A With regard to the Schiavone overhears on the tape, I can't recall right now whether I knew or didn't know. I do not believe that I did.

Q Well, keep in mind that January 12th memorandum mentioned these overhears.

A Yes.

Q And, if you didn't know, then you must either not have read that memorandum or must not have paid much attention to it.

A I paid attention, Senator Hatch, but--

Q But may not have noticed that fact, I take it.

MR. OLSON: I think he said that he can't recall now.

SENATOR HATCH: Okay. All right.

As you can see, this has caused a lot of problems to the Committee and to others because just this exchange of questions right here, because the question I asked and the statement you made was actually broader, quote, "no reference," unquote, without restricting it to New Jersey or, quote, "any," unquote investigation.

MR. OLSON: I think, Senator Hatch, if you look to the top of page 256 in the transcript, which is part of the witness' opening statement, he used the phrase "since 1969 the FBI in New Jersey has conducted an extensive number of court-authorized Title III electronic surveillances involving organized crime or labor-related matters."

Then, when you began your questioning, which is at the very beginning of page 257, you used almost the identical phrase with the exception that you did not include the word New Jersey in your question. You said: Now you have conducted also since 1969 an extensive number of court-ordered Title III electronic surveillances involving organized crime or labor-related matters.

The question is almost directly parallel to the testimony the witness was giving, and I think that illuminates why he might have understood that you were referring to New Jersey, as he was during his opening statement.

SENATOR HATCH: Well, we want to clarify this. I, of course, want you to be able to do that, and hope you can.

BY SENATOR HATCH:

Q On page 256, down about a little bit past the middle, I say: Describe what you mean by informants.

Mr. Mullen, your answer was: Informants in this case or any case are individuals who are knowledgeable regarding organized crime activity in the construction industry in the New York-New Jersey area.

In other words, you made it broader.

These are individuals who are furnishing information to the FBI on a continuing basis. And, of the 20, all are known to have furnished reliable information in the past.

Then I asked: Were any of those 20 informants what are called protected witnesses? You answered: That is correct.

I said: Would all 20 be protected witnesses? Your answer: No, perhaps two of the 20.

Then I asked: What do you mean by protected witnesses? You said: These are witnesses who have testified and furnished information concerning organized crime which endangered their lives and required that they be placed in protective custody, given a new identification, and relocated to another part of the country.

Then I say: Of the 20, 12 were in New York and eight in the New Jersey area. Is that right? Your answer was: That is correct.

See, this is where we have our problems because I felt I asked very broad questions, and I felt there was no way I was limiting those questions to New Jersey. Now, what you are saying here today is that, even though I asked the questions broadly, you understood them to be referring to New Jersey. Is that correct?

A That is basically correct, Senator Hatch. Going back to page 255 is when I in my statement mentioned the 20 informants that--

Q I understand, but they were informants from both areas--

A Those informants were. When we did discuss the wiretaps--my opening statement specifically says New Jersey--I can concede there may have been misunderstanding in this area.

Q In all candor, Mr. Mullen, I personally can take your word for that. But, in all candor, there are a lot of people who aren't going to do that. I know the media has been very upset about this, but, you know, who are they. All I am saying is that it is a problem here that I wanted to clarify.

Let me ask this question.

MR. OLSON: Let me say, before you do, Senator, that I think that what you said is perfectly understandable in that there has been some misunderstanding of this in the media as well as perhaps during the testimony itself. But, if someone places the opening statement of the witness alongside the questions, one can see the parallelism in not only the statement but the questions. And we are not arguing with what you intended by the questions, but I think one can understand how the witness would have assumed as he said he did understand them.

SENATOR HATCH: I personally am willing to accept that. Whether others will be willing to accept it or not, I don't know.

You know, look. We weren't just discussing--the thing that bothers me is we weren't just discussing New Jersey. We were discussing the whole Donovan matter. And the thing that bothers us is that we were not given full, candid information on the whole Donovan matter as of that January 27, 1981 hearing. What has really bothered this Committee is that we have continued to have dribbles of information almost ever since. And the dribbles have been pretty serious. And we did not even see the January 12th memorandum given to Fielding, let alone the backup document, which was initialled by you and others, Adamski, Monroe, and others, until, really, the middle of the year 1982, well over a year after we should have received all this material.

THE WITNESS: I am pleased that you accept that, Senator, but the Newark office was specifically asked to conduct this sort of a check because the nominee was from New

Jersey. At the time of the hearing, I couldn't have given it the same--had not made a similar request of other offices. It would have required more time, more effort. I don't know if we had the time to do it.

BY SENATOR HATCH:

Q A Washington Post story on June 6th, 1982, of an interview with you, states that, quote, "The agents in charge of the New York Masselli inquiry, which reportedly had produced 1,600 hours of recorded conversations, including many that had not been transcribed, notified FBI officials in Washington of the 'Ray Donovan' conversation in January, 1981, on the eve of Donovan's first Senate hearing," unquote.

Was that paragraph accurate?

MR. OLSON: May the witness have that story to look at it in context?

SENATOR HATCH: We will mark this as Exhibit 22. This happens to be a Washington Post story dated June 6, 1982, by George Lardner, Junior, entitled FBI Withheld Facts It Had On Donovan.

(Exhibit No. 22 was marked for identification)

SENATOR HATCH: I am referring to right here on the exhibit marked number one. Is that paragraph accurate?

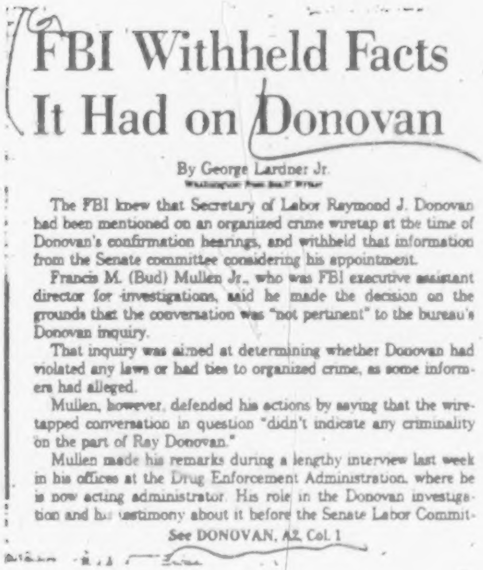
MR. OLSON: You are referring, Senator, to the paragraph--

EXHIBIT NO. 22

The Washington Post

June 6, 1982

Page A1



FBI Withheld Facts It Had on Donovan

By George Lardner Jr.

Washington Post Staff Writer

The FBI knew that Secretary of Labor Raymond J. Donovan had been mentioned on an organized crime wiretap at the time of Donovan's confirmation hearings, and withheld that information from the Senate committee considering his appointment.

Francis M. (Bud) Mullen Jr., who was FBI executive assistant director for investigations, said he made the decision on the grounds that the conversation was "not pertinent" to the bureau's Donovan inquiry.

That inquiry was aimed at determining whether Donovan had violated any laws or had ties to organized crime, as some informers had alleged.

Mullen, however, defended his actions by saying that the wiretapped conversation in question "didn't indicate any criminality on the part of Ray Donovan."

Mullen made his remarks during a lengthy interview last week in his offices at the Drug Enforcement Administration, where he is now acting administrator. His role in the Donovan investigation and his testimony about it before the Senate Labor Commit-

See DONOVAN, A2, Col. 1

#22

FBI Knew of Wiretap Information on Donovan, and Withheld It

DONOVAN, From A1

tor last year have come under increasing scrutiny as allegations concerning Donovan continue to unfold.

The FBI, it was learned from other sources, is sending out new instructions for background investigations in an effort to remedy some of the shortcomings of the Donovan probe and "clarify what is expected of the bureau."

⑥ But Mullen said he had no regrets over his approach to the case, and said he would withhold the information about the wiretap again if he had to do it all over.

The conversation in question took place in 1979 between William P. Masselli, a reputed Mafia soldier who was the target of an intensive FBI wiretapping and surveillance operation, and his son, Nat. It dealt with an invitation Masselli had gotten to fly to some still unidentified social event with "Ray Donovan" and "Ronnie" Schiavone, Donovan's partner in the New Jersey construction business.

According to informed sources, there are, in addition to the "Ray Donovan" reference, a number of other mentions of "Ray" on the Masselli tapes that turned up when special prosecutor Leon Silverman and his aides had them all transcribed this year.

① The agents in charge of the New York Masselli inquiry, which reportedly had produced 1,000 hours of recorded conversations, including many that had not been transcribed, notified FBI officials in Washington of the "Ray Donovan" conversation in January, 1981, on the eve of Donovan's first Senate hearing.

④ Mullen said he and aides in the Special Inquiry Unit (SPIN), which was conducting the Donovan background check, made the determination not to tell the Senate committee of the wiretap partly because it [the Masselli inquiry] was "an ongoing investigation."

He said some of the material it had churned up already had been presented to a grand jury and, under the Federal Rules of Criminal Procedure, could not be released outside law enforcement agency circles without a court order.

FBI officials here, however, made no effort to determine if the Donovan conversation was covered by the grand jury secrecy rule. Mullen said he discovered later that it was not. But he still defended the decision not to tell the Senate committee. FBI Director William H. Webster, Mullen added, was not involved.

② "I made that decision consciously," he said in one exchange with three reporters present. "I didn't want to open up that whole area, because in my judgment that [illegible] was not pertinent."

③ Q: "Not pertinent to what?"

Mullen: "To the special inquiry we were conducting. It didn't indicate any criminality on the part of Ray Donovan."

Q: "Weren't you also investigating associations, Donovan's alleged associations with the mob?"

Mullen: "Yeah, that didn't . . . . [pause] To me at the time, the judgment was that didn't tie him to the mob."

Q: "But it wasn't even pertinent to the investigation, even though you're investigating associations? That reference wasn't pertinent?"

Mullen: "That's right."

In his prepared testimony before the Senate committee on Jan. 27, 1981, Mullen carefully confined his remarks about "electronic surveillances involving organized crime or labor-related matters" to "New Jersey," and said, "A review of the results of this coverage reveals no reference to Mr. Donovan or the Schiavone Construction Co."

But then Chairman Orrin G. Hatch (R-Utah) began the questioning, asking about FBI informers in the New York and New Jersey area who had been interviewed, then moving on to general questions about "the hundreds" of organized crime and labor-related wiretaps and electronic surveillances the FBI had conducted since 1969.

Hatch then asked: "Your unit has investigated every one of these wiretaps and the information and data on them, and is it correct to say you have found absolutely nothing pertaining to Schiavone Construction Co.?"

"That is correct, Senator," Mullen replied. "In each case when we do have a court-authorized wiretap, we must record the identity of every individual or company referred to. We maintained those records, known as overhears, and we located no reference to Mr. Donovan or Schiavone Construction Co."

Asked about that exchange in the interview, Mullen said he was still mentally limiting his remarks to wiretaps "in New Jersey," even though he didn't explicitly say so.

"Maybe I did it in my head, but I did it," he said, "because I specified New Jersey there at the beginning."

RAYMOND J. DONOVAN
. . . allegations continue to unfold

It appears, in any case, that Mullen's testimony was not quite complete even in speaking of New Jersey [illegible]taps which, he said, contained "no reference" to Donovan or Schiavone Construction. In fact, Mullen acknowledged during the interview, the FBI's summaries or indexes of the New Jersey surveillances, in line with standard procedure, list only the participants in a conversation and rarely mention "references" to others.

It was those indexes, not the tapes themselves, that the FBI consulted in making its report to the Senate committee. Donovan, Mullen said, could have been "referred to 50 times" on the New Jersey tapes and his name would not have been indexed unless some criminal conduct was ascribed to him and he was identified clearly.

The Masselli tapes, by contrast, represented a departure from standard procedure, Mullen acknowledged, in that the agent in charge of the case considered them so important that "everybody mentioned" and every company, eventually 14,000 references, were put on a computerized index.

As a result, Mullen said, "it seems to me that I did know" at the time of the confirmation hearings "there were other references" to other Schiavone officials and mentions of "a lot of business dealings between Schiavone and Masselli" on the Masselli tapes.

Mullen did not mention these at the hearings. He shrugged them off during the interview as unimportant because, as he understood it, they concerned only "business dealings, legitimate business dealings."

Now in prison as a result of other evidence obtained from the tapes, Masselli was head of Jopel Construction and Trucking Co., which, sources say, muscled its way into business as a subcontractor for Schiavone Construction on a New York City subway project in 1977.

Masselli took over the assets of another subcontractor, Louis Nargi, who reportedly had fallen into heavy debt to Masselli, and he subsequently built Jopel into a multimillion-dollar business. The takeover, sources say, set off recriminations that resulted in a Mafia "sitdown," but the dispute was resolved in Masselli's favor.

Mullen said he "could well have known" at the time of Donovan's confirmation proceedings of the reports that Masselli had muscled Nargi aside, since that was what a good part of the investigation targeted at Masselli "was all about." But he indicated that he still saw no reason to bring that up in the context of the Donovan inquiry.

As for the taped allusion to a possible social trip with Masselli, Mullen emphasized several times that there was only that "one time" reference.

⑤ "One time! One!" he said. "Hell . . . . you hold one trip against a guy? If you said he was frequently in their company or something, that's different. And he may not have even known he was referred to on there."

According to informed sources, there are, in addition to the "Ray Donovan" reference, a number of other mentions of "Ray" on the Masselli tapes that turned up when special prosecutor Leon Silverman and his aides had them all transcribed this year.

The FBI also was told just before Donovan's first Senate hearing that a bureau informer had alleged that Donovan was in a party arranged by Masselli that had gone to Miami for the 1979 Super Bowl. Mullen dismissed that, however, on the grounds that it had been "proven to be incorrect."

Masselli and his colleagues, he said, were under intensive investigation at the time of the 1979 game. "The people who went [to Miami with [illegible]] were photographed [getting on and off the plane] and surveilled and the manifest was checked," he said, "wasn't in the photographs" and his name didn't show up on the manifest.

But when asked if the agents conducting the 1979 surveillance would have known Donovan if they had seen him, Mullen replied: "I doubt it."

A few days before its final hearing on the Donovan nomination, the Senate Labor Committee was told of allegations from informers that Schiavone Construction was "mobbed up" through Masselli, but not of the extensive wiretaps that might have been checked.

At one point, Sen. Donald W. Riegle Jr. (D-Mich.) began asking about what kind of a record Masselli had. Mullen interrupted in mid-sentence and told the senator "I do not have any background whatsoever on him."

Mullen defended that response vigorously. "I didn't [have it] at the time," he said. "I just didn't have it. . . . It wasn't in my head. I don't know every organized crime figure in the country."

The FBI also was told that a bureau informer had alleged that Donovan was in a party arranged by Masselli that had gone to Miami for the 1979 Super Bowl. Mullen dismissed that, however, on the grounds that it had been "proven to be incorrect."

Still executive assistant FBI director as well as acting DEA administrator, Mullen said he decided on the interview to try to lay to rest mounting questions about his testimony and his role in the Donovan investigation.

He acknowledged that there were some relevant allegations in FBI memos and interviews that were buried in bureau files until recently, but Mullen said "I testified honestly, forthrightly and to the best of my knowledge at the time."

"You learn to testify," he said. "I've always been of the opinion that [when] you go before a congressional committee, you're positive, you don't hedge, [you don't] dance around answers. You just come on, and hit it hard and be up front. And that's what I thought I was doing. And I still believe that."

SENATOR HATCH: Where it is marked number one--

MR. OLSON: Where there is a circle--

SENATOR HATCH: Where it is marked number one: "The agents in charge of the New York Masselli inquiry, which reportedly had produced 1,600 hours of recorded conversations, including many that had not been transcribed, notified FBI officials in Washington of the 'Ray Donovan' conversation in January, 1981, on the eve of Donovan's first Senate hearing," unquote.

MR. OLSON: Is your question whether that is quoted accurately?

SENATOR HATCH: Is that paragraph accurate?

MR. OLSON: Or does it contain--

BY SENATOR HATCH:

Q Does it contain accurate information?

A I do not know that many have not been transcribed. I do not know that--

Q That is the only part of that you would consider to be possibly inaccurate?

A And the way it's written, when they say the Ray Donovan conversation, one could infer reading the article that there was a conversation by Ray Donovan overheard, which is not accurate.

Q Outside of those two reservations you have, is it basically accurate?

A I am not absolutely certain of when the notification came in. It may have been the teletype which you will be looking at later. I am not certain that there was a phone call, that could have been earlier or later, exactly when. If it was a teletype, then it would be an accurate statement.

Q Did you in fact tell the reporter that or basically that?

A I don't believe I told the reporter that. I think that was the reporter's interpretation of information he may have gotten elsewhere.

Q Had you been interviewed by--

A I was interviewed. That is correct.

Q As I understand, there were three reporters there.

A Three reporters were there.

Q It is also my understanding that they were there by your own personal invitation.

A That's not accurate, Senator. The two reporters particularly were making numerous efforts to interview me--and, if I had anything to do over in this whole affair, I would not have taken part in this interview. But some of the questions that were being asked were simply outrageous. And I was advised by the chief of media affairs at FBI headquarters it may be well to submit to an interview to see if you can clear up some of these outrageous questions that are being asked. And that was the main reason. My own personal thought, and it remains to this day, is I should not have taken part in any interview before appearing before this Committee.

SENATOR HATCH: Let the record show that two additional people have entered the room. Just identify yourselves.

MR. FORSCEY: Mike Forscey, with Senator Kennedy.

MR. LINDREW: Gerald Lindrew, with Senator Riegle.

BY SENATOR HATCH:

Q Were many of the Masselli tapes not transcribed?

A Senator, I do not know. I cannot answer that even today.

Q Did the agents in charge of the case notify FBI headquarters in January with reference to Mr. Donovan on the tapes?

A Reference on a tape.

Q On a tape?

A Yes.

Q In other words, they did notify the FBI that Mr. Donovan was mentioned on a tape?

A That's correct.

Q Did they say how many times he was mentioned?

A One time.

Q When did you learn of that? And how did you learn of it?

A Senator, I could have learned of it in two ways. I am sure I was told--learned of it by memorandum. I am almost as certain that there was oral discussion.

Q With whom?

A I believe Mr. Adamski.

Q Was this the first you knew of Donovan being mentioned on the Masselli tapes or a Masselli tape?

A Yes.

Q Did you also know that there were a number of references to other Schiavone officials on the Masselli tapes?

A I do not believe I was advised that there were a number of references to other Schiavone officials. It could have been mentioned. I just do not recall.

Q Are you aware of that now?

A That there were references to other Schiavone officials?

Q Yes.

A I am aware of that now.

Q In this report, the middle column, right under the Donovan picture at the bottom, the bottom paragraph: "As a result, Mullen said, 'it seems to me that I did know' at the time of the confirmation hearings 'there were other references' to other Schiavone officials and mentions of 'a lot of business dealings between Schivone and Masselli' on the Masselli tapes."

Now, do you feel like you did know at that time or you did not know?

A I have a problem with this, Senator, as I have learned so much since the hearings. I have a difficult time putting things in--

Q Putting them into chronological--

A --in logical order of when I first heard about them.

Q Okay. But, apparently, you knew it at the time of this interview with Mr. Lardner, or at least knew that. Is that correct?

A The answer I gave then is basically the same I will give now. It could well be that I did know. But I just can't state positively.

Q Were there also references on the tapes to a, quote, "Ray," unquote, in addition to this one mention of Mr. Donovan on one tape?

MR. OLSON: Are you asking for a state of mind in January of 1981 or presently?

SENATOR HATCH: At present, and then we'll get back to January of 1981.

THE WITNESS: At present, I understand there were other references to Ray.

BY SENATOR HATCH:

Q What about then?

A I did not.

Q Do you know how many references there were pertaining to, quote, "Ray," unquote, in the Masselli tapes?

A I have been advised recently, I believe, five or six.

Q What efforts have been made to determine whether or not those references pertain to Mr. Donovan? And, in fact, did they?

A Again, I have been advised this was something that was handled by the special prosecutor. So, I am not aware of what efforts were made to determine whether or not they pertain to the nominee, or to the secretary.

Q You don't know whether they did or did not?

A I really do not at this time.

Q Can you find out for me?

MR. OLSON: Is this something that the special prosecutor knows? I don't know.

SENATOR HATCH: I don't know. All I want to know is, did the other references that you have characterized as five or six pertaining to, quote, "Ray," unquote, on these tapes pertain to Mr. Donovan in the opinion of the FBI.

MR. OLSON: We can undertake to provide you with an answer to that question--

SENATOR HATCH: If you can.

MR. OLSON: --and it may be that it is not possible for the FBI to say one way or the other--

SENATOR HATCH: We understand.

MR. OLSON: --and it may also be that it is something that is within the province of the special prosecutor, and we would defer. I simply don't know.

SENATOR HATCH: I can't imagine that that would be in the province of a special prosecutor. I am sure that everything is in the province of a special prosecutor, but I can't imagine that that would be in the province in such a way that it could not be given to us.

So, if you can, give it to us. You know, if you cannot, tell us why. Okay?

MR. OLSON: That will be fine.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Did you state, as reported in the Washington Post, in an article of June 6, 1982, in the second column, second paragraph, the middle of the second paragraph, where it is marked two there, quote: "I didn't want to open up that whole area, because in my judgment that conversation was not pertinent," unquote? Did you say that to Mr. Lardner?

A I believe I said that, Senator Hatch.

Q Did you state, also as reported in the Washington Post of June 6, 1982, that, quote--it is the first sentence of that number two paragraph: "I made that decision consciously," unquote?

A I did make that statement also but--

Q You did or did not?

A I did.

Q You did.

A I don't know what preceded or followed that statement, whether I qualified it or not. I believe that I may have, Senator Hatch.

Q Did you state as reported in the Washington Post, quote: "I didn't want to open up that whole area, because in my judgment that conversation was not pertinent," unquote?

A I believe that I did.

Q What did you mean by opening up that whole area? What area didn't you want to open up?

A Several things in that area, Senator Hatch. The protection of the source in the so-called Tumcon case, and the nature of the Tumcon investigation.

Q Characterize the Tumcon investigation again for the record at this point.

A At that time--and I believe it is still valid--the TUMCON investigation was directed at possible organized crime activity and public corruption in awarding construction contracts in New York.

Q And New Jersey or just New York?

A I believed it was New York. To my knowledge, that is still the case.

Q In that interview, if you will continue to read on, were you asked the following questions, and did you give the following answers? Question: "Not pertinent to what?" Answer: "To the special inquiry we were conducting. It didn't indicate any criminality on the part of Ray Donovan."

Question: "Weren't you also investigating associations, Donovan's alleged associations with the mob?" Mullen: "Yeah, that didn't--To me at the time, the judgment was that didn't tie him to the mob."

Question: "But it wasn't even pertinent to the investigation, even though you're investigating associations? That reference wasn't pertinent?"

Mullen: "That's right."

Is that basically a correct interview?

A That's correct, Senator.

Q Okay. Were you of the view that Donovan's associates were not, quote, "pertinent," unquote, or his associations?

A No, I was not of that view.

Q Didn't you testify earlier that one of the areas of concern was, you know, Donovan's associates, the people he was associating with?

A That is part of our special inquiry investigation.

Q As a matter of fact, associations are an important part of criminal investigations to the FBI. Is that not correct?

A Yes, Senator.

Q Do associations with organized crime, quote, "tend to show," unquote, that an individual is, quote, "not reliable," unquote, or, quote, "untrustworthy," unquote? Now, that is a standard set forth in the Eisenhower Executive Order earlier mentioned in your testimony. Would you say that is still a standard that the FBI follows?

A I'm sorry, Senator Hatch. You say that was part of my testimony?

Q No, no. I am just trying to say, the standards the FBI still applies is whether associations with organized crime tend to show that an individual is not reliable or trustworthy.

A I don't know if I can make that general assumption.

Q Well, if an individual nominated for a cabinet-level position had associations with organized crime or an important magnitude, would that in the eyes of the FBI tend to show that the individual may not be reliable or trustworthy?

MR. OLSON: Can you specify what you mean by important magnitude?

SENATOR HATCH: Well, you use the definition of what you think is a magnitude or not. In fact, maybe I can change the question.

BY SENATOR HATCH:

Q What magnitude would cause you to think that a person's associations with organized crime would tend to show that the individual is not reliable or trustworthy?

A That is a difficult conclusion for me to draw. See, Senator Hatch, often individuals do not even know they are dealing with organized crime. If an individual were himself involved in organized crime activity--

Q Let me give you a standard right out of your own standards. This is part two, section seventeen. This is Exhibit Number 12 I am referring to: applicant and employee investigations conducted for other government agencies, general instructions, 17-6.12, association with questionable individuals--underlined--number one: Ascertain the degree of association and awareness on the part of the person under investigation of activities of the questionable individual. Two: extent of influence questionable individual exercises over applicant. Three: if questionable individual previously investigated under Executive Order 9835, Executive Order 10450, Executive Order 10422, report should so state. Include title or position, agency where employed, and year investigation conducted. Also report any pertinent data received subsequent to above investigation. Four: such names of questionable associates--

I mean, that is basically your standard that you would follow. Is it not?

A That is a standard, but what conclusion is drawn, for me, it would vary from case to case. I think a key word, Senator Hatch, is awareness here.

Q Well, would it be relevant to an applicant investigation that an applicant was associated with an individual who was the subject of a criminal investigation? That would certainly be relevant, would it not?

A It would be relevant, but the degree of association would be a consideration also.

Q That's right.

Wouldn't it also be relevant to an individual applicant investigation that an applicant was associated with an individual who has been indicted? I mean, it may not mean anything, but it still would be relevant, wouldn't it? It may or may not be crit--

A It could be relevant. You go into the awareness, the degree of association, et cetera.

Q Well, were you, at the time you testified on January 27th, 1981, aware that Jopel had dealings with Schiavone at that time, or prior to that time?

A I am well aware of it now. The extent of my awareness at the time, extent of my knowledge, I just can't recall.

Q Well, did you state, as reported in this article dated June 6, that, quote--I again put you to the bottom paragraph underneath Donovan's picture in the third column: "it seems to me that I did know," unquote, at the time of the confirmation hearings, quote, "there were other references" to Schiavone officials and mentions of "a lot of business dealings between Schiavone and Masselli" on the tapes? Did you state that?

A I stated that, Senator, as the quotes are indicated there.

Q Did you state, as reported, that a good part of the investigation was the takeover of Nargi's business by Masselli?

A Would you point that out to me, Senator, please?

Q Well, right here in the fourth column, middle paragraph: Mullen said he, quote, "could well have known," unquote, at the time of Donovan's confirmation proceedings of the reports that Masselli had muscled Nargi aside, since that was what a good part of the investigation targeted at Masselli, quote, "was all about," unquote.

A Could well have known is probably a strong statement. Again, it is in quotes, so I probably said that. But, even as I sit here now and testify under oath, I can't recall that Masselli had muscled Nargi aside.

Q Well, the rest of that paragraph says: But he--he meaning you--indicated that he still saw no reason to bring that up in the context of the Donovan inquiry.

Is that correct?

A Which I see as a conclusion of the report. I am not certain that that's--

Q Well, why did you feel at the time? Did you feel that that just was something you didn't want to get into at the time? Or did you feel that was up to the White House if they wanted to reveal that information? Or how did you feel?

A I do not know that the White House was even aware of that information, and I am not certain, Senator, that I was, or that I recall. I may have been aware and not recall it at the time.

Q I agree. I don't think the White House--I don't think we have any indication in any of the documents we have or any of the information that we have that the White House knew anything about Nargi or that problem at the time.

But that may be, you know, all the more important for you to have told us about it at the time. See, that's one of the--it is always easier to look at things in retrospect than it is in prospect, and I understand that. But it still seems to me that was an extremely important thing or item of information for the Committee to have known on January 27, 1981, since you knew about it.

A And I recall--

Q --and since people who work with you knew about it.

A Had I recalled and been aware of it.

Excuse me, Senator.

(Off the record)

BY SENATOR HATCH:

Q You state, as reported, that you discussed the decision not to tell the Senate about the Title III overhear with others in the SPIN unit. I think I could refer you to what has been marked as paragraph four in the left-hand column on the second page of that exhibit, where it says: "Mullen said he and aides in the Special Inquiry Unit (SPIN), which was conducting the Donovan background check, made the determination not to tell the Senate committee of the wiretap partly because it [the Masselli inquiry] was 'an ongoing investigation.'"

Is that a correct statement?

MR. OLSON: That is a correct reading of the paragraph.

SENATOR HATCH: That is correct.

BY SENATOR HATCH:

Q Now, is that what you said, though, to the reporter?

A That would be an accurate paragraph, Senator--

Q Okay. As you indicated, there were two other reporters present at this time. Is that correct?

A That is correct.

Q Did they tape your statements?

A I do not know. I did see one reporter place a recorder on the table. Normally, when someone comes in, a reporter: "Do you mind if I tape this?" Whether it was taped or not, I do not know, but there was a tape recorder on the table.

Q When you refer to you and the aides in the Special Inquiry Unit, who were the aides?

A The only one I can remember with total accuracy would be Mr. Adamski, who was kind of the go-between on this.

Q Did Mr. Adamski or any of these other aides share your view that the tape reference to Donovan was not pertinent to our investigation, the Labor Committee's investigation?

A I am sure that they did because these are the individuals who would make recommendations to me.

Q Are there any memoranda concerning these conversations? If so, who shared your view?

A Not memoranda that I am aware of--

Q Would you check for the record and, if there are any memoranda, give them to us?

A We will check.

Now, Senator, again due to the passage of time, I cannot recall exactly when a lot of conversations took place. But this belief with regard to discussing this one reference to Secretary Donovan was also a strong belief on the part of the organized crime agents at FBI headquarters.

Q Who specifically? Can you mention any of the organized crime agents who held that same strong belief?

A Yes. Agent Bonovolanta, who I believe is the assistant section--

Q Can you spell that for the record to the best of your ability?

A B-o-n-o-v-o-l-a-n-t-a.

And I would believe, also, the section chief, Mr.

McQueeney. M-c-q-u-e-e-n-e-y.

Q Who was necessary to make the decision not to mention any tape reference, any of the Masselli tape references to the Committee?

A Whose authority?

Q Who made the decisions?

A The ultimate decision would have been mine.

Q So, you made it yourself that you should not mention the Masselli tapes to the Committee or that we should not be given the January 12th memorandum?

A With regard to the January 12th memoranda, if I could take that first, it is not normal practice to furnish internal memorandum as part of documents in a special inquiry case. We have used the summary format.

Q But we didn't even get the summary format in the Committee. See, we didn't even get the one that you gave to Mr. Fielding.

A That is my understanding now. I did not know that at the time.

Q Did you feel that was the White House's responsibility, whether or not they gave us that memorandum, Mr. Fielding's responsibility?

A By way of established procedures, that would have been the normal course, for the item to be furnished to the transition team and then to the Committee.

Q But, even so, when you testified, you still did not give us the information that was on that particular memorandum. Isn't that correct?

A The January 12th memorandum was referred to in the January 23rd memorandum, but all of the information contained in the internal memorandum was not furnished.

Q Let me see if I can correct the record. I do not believe that the January 12th memorandum was referred--either the backup document or the Fielding memorandum on January 12th was referred to in the January 23rd report.

A Now, the--

Q You are saying the materials would refer to it. Is that what you mean?

A No. What I am referring to, Senator Hatch, on the January 23rd, 1981 memorandum entitled Raymond J. Donovan, the second paragraph, which you referred to, page three, on January 12th--

Q In another communication of the FBI.

A Yes.

Q In other words, you talked as though that was an oral communication. Okay. I see what you are referring to.

MR. OLSON: I think it is fair to say, Senator, that the reference in paragraph two of the January 23 memorandum does not say oral necessarily.

SENATOR HATCH: Nor does it say written memorandum.

MR. OLSON: That is correct.

SENATOR HATCH: So, in other words, what we would be led to believe is that on January 12th another informant came forth and gave the information and that the information described in here contained the basic information that you had as of January 12th.

MR. OLSON: Well, I think that the paragraph there in the January 23 memorandum speaks for itself. I was not trying to characterize it.

SENATOR HATCH: One of the problems that we are having is that, even if you were of the view that the White House had the January 12th memorandum and that they had the right to give us or not to give us the information, your responses here may even have put the White House into a bind where even they could not give us the information because you did not give us the detailed information with regard to Jopel and the Masselli tapes that you had access to in the backup memorandum dated January 12, 1981.

THE WITNESS: I am sorry, Senator. I do not follow that.

BY SENATOR HATCH:

Q You in your testimony indicated that there was no more information other than what you had in that January 23rd, 1981 report. So, how could the White House then come out and contradict you and say there was?

MR. OLSON: I am not sure either one of us understands the question, Senator.

THE WITNESS: Or the observation.

BY SENATOR HATCH:

Q What you indicated to Mr. Lardner in this report was that you made the decision consciously that the references to Donovan on the tapes were not pertinent. Then, when I asked you--

A Excuse me, Senator. Reference.

Q I am talking to the second paragraph, marked the second paragraph on the exhibit itself.

Then, when I asked you--

MR. OLSON: The witness was simply trying to explain that there was a reference, singular, not references.

SENATOR HATCH: I see. Reference. Okay.

BY SENATOR HATCH:

Q Then, when I asked you broader questions concerning whether Mr. Donovan or Schiavone has been mentioned in any of these investigations, you said that's correct, they were not. So, when you said that, the White House may have felt they were in a position where they could not give up this document either.

MR. OLSON: I am not sure where you are going with--whether there is a question there. I think the witness has already testified that he understood you to be referring to

New Jersey when you asked that question, and that answer was given.

SENATOR HATCH: Okay, but all I am trying to say is it is easy for me to see why the White House may have felt they could not give us that information, following your testimony, which indicated there was none to give. Of course, you thought you were referring to New Jersey. They may have thought, as I did, you were referring to the whole investigation.

MR. OLSON: I would just as soon the witness not, at least under oath, speculate about what the White House might have thought.

SENATOR HATCH: All right.

BY SENATOR HATCH:

Q Did you discuss this tape reference in the Masselli tapes with Director Webster?

A Not at that time.

Q Did you discuss it with anyone outside of the SPIN Unit itself?

A Other than organized crime agents at FBI headquarters, no.

Q You received a memorandum that described the tape reference as pertinent. I think that characterization, pertinent, was dictated by Adamski and went out over Monroe's name. Isn't that correct?

MR. OLSON: Is this the January 12th?

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q You have testified here that the information was serious, important, pertinent. Yet, Adamski characterized it as pertinent--

MR. OLSON: Senator, I can't recall. Are you talking about his testimony last week and this week, the witness' testimony last week and this week? I cannot recall the words that were used.

SENATOR HATCH: I think we are referring to testimony last week.

Let me just push on from here.

BY SENATOR HATCH:

Q The January 12th, 1981 material was sufficiently pertinent to advise Mr. Fielding by phone on January 11th, wasn't it?

MR. OLSON: Senator, the record indicates that such a conversation did take place.

SENATOR HATCH: So, it had to be pertinent, I guess, with--

MR. OLSON: That is a characterization.

SENATOR HATCH: I want to know whether he felt it was pertinent enough to be given to Mr. Fielding or whether the word pertinent is an appropriate word to apply to it.

THE WITNESS: I think the word pertinent in that memorandum is a little strong. I would not have used it.

As you know, Senator Hatch, there was extensive contact, not only between Adamski and the White House but Adamski and members of your staff and minority staff here on the Hill. So, what was discussed--some may have been pertinent, some may not have been, but there was extensive discussion.

I do not know what else I can say about that memorandum, other than it was an internal document, and that was Mr. Adamski's characterization of the --

Q Yes, and I am referring to the internal document which is dated January 12, 1981, which I have been calling the back-up memorandum, the internal document, on the second page, where Mr. Adamski apparently said, in the middle paragraph, "A search of the central files of the FBI, the indices of the New York Office, and the Organized Crime Information System disclosed one pertinent reference to Mr. Donovan, which is a Title III overhear between William Masselli and his son, Matt Masselli, which makes reference to the fact that Mr. Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function."

Now, in your testimony on page 134, dated August 12, 1982, I asked this question:

"You would have to say the memo was pertinent to our investigation, to our examination of the Donovan confirmation?"

And the answer was: "Yes, I would say that. If I could elaborate, Senator Hatch, I did mention yesterday that I, at a supervisory level, would really look for a couple of items and those are that the information was disseminated and that the allegations were being looked into."

That is what we were referring to.

A Oh, I see, the memo as a whole, you are referring to.

Q Now, on page 131 of the same transcript, I said:

"Let me ask you this, Mr. Mullen. Do you consider the information in this January 12, 1981 memorandum to be serious in nature, and do you consider these allegations to be serious?"

Your answer was: "I consider this memorandum to contain important information."

I then say: "Serious information, isn't it? You would consider this serious information pertaining to anybody who has investigated or -- "

And your answer was: "Could be characterized as serious also, Senator."

A That's correct, Senator Hatch.

Q All right.

A Excuse me, Senator. (Conferring with Mr. Olson.) Thank you, Senator.

Q Okay. Did you ever state, as reported in the Washington Post article of June 6, 1982, that you decided not to tell the Senate about the Title III overhear because it involves an ongoing investigation? I think you can see that at the bottom of Paragraph 4, the one that is marked Paragraph 4.

A I believe I have already answered in the affirmative on that.

Q Okay. What about the ongoing investigation prevented disclosure, Mr. Mullen? Didn't the individuals mentioned on the tape receive notice in 1979 of the overhears as required by Title III?

A I am not certain as to when they received information regarding the overhears.

Q Well, we know that the statute requires them to know within 90 days, so I assume that they would have been notified pursuant to the statute. It is my understanding the taping ended July of 1979, so within 90 days they should have been told about it.

MR. OLSON: I don't think the witness knows the answer to the question.

BY SENATOR HATCH:

Q You do not know the answer to that?

A I do not.

Q But we will still go back to my original inquiry. and that is, what about the ongoing investigation prevented disclosure?

A What about it?

Q Yes.

A Decisions were still being made with regard to possible prosecution of some subjects of the investigation.

Q I see. And you considered that significant enough to prevent disclosure to the Committee of this?

A That, along with other factors.

Q Well, the thing that the members of the Committee have to question in their minds is how would that compromise -- disclosure of the Masselli overhears and the reference to Donovan -- how would that compromise the ongoing investigation to disclose that to the Committee? And I might add, I can show you Exhibit Number 14 again, the New York Times, where they already mention the wiretaps and the overhears. Now, that is the New York Times. I could also mention the New York Times again on March 22nd, 1980; it is entitled, "Ninety Hours of Tapes Spur Bronx Crime Inquiry." In other words, it was pretty well-known to everybody.

A I was not aware of these New York Times articles.

Q You were not aware that people knew, that the public in general knew, that you had been overhearing on the Masselli case?

A I was not aware of any articles, or that the public knew. I am not certain now that the public knows.

Q Okay. Now, you can see why members of the Committee have been pretty upset, because the question that comes to our minds is, shouldn't you have made yourself aware of that before withholding information from this Committee, that it is very difficult for us to see why it should have been withheld anyway, even if it wasn't publicly noticed.

A Senator, the fact that this was an ongoing investigation was but one consideration, and I believe -- I would have to review my testimony -- but I indicated in my testimony before the Committee on January 27th that we did not go heavily into other investigations, that this was a special inquiry investigation, and we didn't get heavily into other criminal investigations.

Q Well, if you will recall, during the hearings, you indicated to the Committee -- and so did Mr. Adamski, as I recall, that if this was a criminal investigation, it would have been given up a long time ago; basically, you would have given it up as not significant or unresolved.

A With regard to the allegations that were being made regarding the --

Q Against Mr. Donovan.

A I recall that statement -- those statements.

Q Or statements like that, similar statements. Well, did you state, as reported in the "Washington Post" several times, that there was only one reference to Mr. Donovan?

A One reference --

MR. OLSON: You are asking --

SENATOR HATCH: On the Masselli tapes.

MR. OLSON: -- what he said to the reporters gathered that resulted in the story on June 6?

SENATOR HATCH: Well, not only this, but reported on other occasions.

BY SENATOR HATCH:

Q Did you tell the "Washington Post" reporter or reporters that there was only one mention of Donovan on the Masselli tapes?

A Yes.

Q Now, the reporters claim that you repeatedly said one time only. Do you remember that -- or, "One time! One!"

MR. OLSON: One reference?

SENATOR HATCH: Yes, just one reference.

THE WITNESS: I do not recall repeatedly stating it, but I knew of only one reference.

BY SENATOR HATCH:

Q The reporters claim that you stated: "Hell...,you hold one trip against a guy? If you said he was frequently in their company, or something, that's different. And he may not have even known he was referred to on there."

Did you say words to that effect, or is that an accurate quote? That is Number 5 mentioned in the "Washington Post" article.

A Yes.

Q Do you know whether Mr. Donovan was notified that he was referred to in the Title III overhear?

MR. OLSON: As of about the time --

SENATOR HATCH: On or before January 27th, 1981.

THE WITNESS: Senator, he would not have been notified. It is those that are overheard that are notified.

BY SENATOR HATCH:

Q Did you say in words or substance, as reported, that you had no regrets about failing to disclose the tape reference? Now, you can find that in the one marked Number 6: "But Mullen said he had no regrets over his actions in the case and said he would withhold the information about the wiretap again, if he had to do it over again."

A That's a little strong, Senator.

Q You don't think you were that strong?

A I do not. If I thought that having mentioned that one item would have prevented all of this, I surely would have mentioned it.

Q I feel a little bit the same way about that.

Were you present when Mr. Donovan testified on January 27th, '81?

A I was not.

Q You were not. So, you did not hear him testify, and you were not aware that he testified that he actually had no social contacts with Mr. Masselli?

A I was not present during his testimony.

Q I had asked you to stay; that's why I thought you were there.

MR. OLSON: Excuse me a moment, Senator.

(Conferring with Mr. Mullen.)

THE WITNESS: Senator Hatch, it could well be that you asked me to stay; I do not recall.

SENATOR HATCH: Well, you may have stayed, and you just don't remember.

THE WITNESS: Oh, I did not stay.

SENATOR HATCH: Oh, you did not, okay.

THE WITNESS: I did not stay.

BY SENATOR HATCH:

Q On page 263 of the hearing transcript -- do you have a copy of page 263 -- I'm reading the second paragraph on the first page of the January 23rd, 1981 report, relating to the allegations of three separate informants that the upper management of the Schiavone Company was closely aligned with organized crime elements through Masselli, and that Mr. Donovan was acquainted with organized crime figures through Masselli on a business and social basis.

Quote: "Mr. Mullen: The FBI has found no evidence to substantiate that information." That is what you said.

Then I said: "Have you extensively checked upon these allegations?"

Your answer was: "We have, through other sources and information described in my opening statement."

MR. OLSON: We did not -- oh, here it is --

SENATOR HATCH: I skipped some of it.

MR. OLSON: You lost us a little bit, but we accept your reading of the transcript.

SENATOR HATCH: All right.

BY SENATOR HATCH:

Q Now, as I see it, the FBI had received the allegations about the relationship between Schiavone and Masselli on January 8th, 1981. The Picardo allegations were received five days later, on January 13th, 1981. The FBI then conducted an extensive investigation of the Picardo allegations between January 14th, 1981 and the January 23rd, 1981 report. Now most of this January 23rd, 1981 report was devoted to the results of that investigation, as I understand it. However, the January 23rd, 1981 report reflects no investigation of the allegations about Masselli.

Now, what investigation was actually conducted with regard to Masselli during that period of time -- if you know? And I might add, were the informants recontacted for further information on Masselli?

A (Conferring with Mr. Olson.)

Senator, in my testimony before the Committee on the 27th, there is discussion of contacting 20 sources. This would have been to look into the general allegations and would have included, I am sure, Masselli activity. That would have covered that. But I am not sure whether individuals were specifically asked about this relationship or that, but generally, these allegations of social and business ties with organized crime.

Q Okay. Was one of these informants that you contacted subsequently prosecuted?

A Yes.

Q Why?

A If we could, Senator, discuss that --

Q That would compromise --

A -- it would compromise the source. I believe it would identify the source.

Q Okay. Was it part of the Masselli investigation, or in the Masselli investigation?

A That would compromise the source.

Q That, again, would compromise the source. Was he the source of any of the allegations about Donovan -- that informant?

A Senator, I would be pleased to furnish this information to you, if we could discuss it in private. I am just reluctant. I think it could lead to --

Q I understand. I have to ask the questions, but I also understand your answers, too. I did not know how you would answer, but I wanted to ask the question.

Now, you stated in your prepared statement that 20 informants were contacted re -- with regard -- to the overall Donovan investigation. How many of those were contacted specifically about the alleged Masselli association?

A I do not know.

Q What other information in your opening statement related to the investigation of these allegations, the Masselli allegations, if you know?

A I just do not know, Senator.

Q Let me refer you to page 269 of the hearing record. There was an exchange between you and Senator Riegle.

A Yes.

Q On page 269, Senator Riegle said: "My question is, has the Bureau made an effort to determine the degree to which there may be a relationship between the Jopel Construction Company and the Schiavone Construction Company? Has a serious effort been made to establish the level of contact of the operating executives, any business relationships?"

Your answer was: "Yes, Senator. I would say serious effort has been made."

Now, let me ask you this. What effort was made -- or what efforts were made? Or, excuse me. Senator Riegle goes on, and he says, "What was found in that regard?" and your answer was, "Very, very limited contact, especially when the nominee was involved."

Was that truthful and accurate? Do you recall being asked this question and giving the following answer?

MR. OLSON: You jumped.

SENATOR HATCH: I understand.

MR. OLSON: Where did you jump to?

SENATOR HATCH: Let me go back to that.

BY SENATOR HATCH:

Q When Senator Riegle said, "What was found in that regard?" and your answer was, "Very, very limited contact, especially when the nominee was involved," my question is, was that truthful and accurate, your answer, "Very, very limited contact...."?

A To the best of my knowledge, it was, and is, Senator Hatch. Going from memory, I can recall being advised that there were business contacts between the two companies.

Q Did you at the time know the extent of the subcontracting business for Schiavone?

A The extent of the subcontracting business?

Q Yes.

A No --

Q As I understand it, Jopel was established just to do subcontracting work with Schiavone, as a minority business enterprise.

A I do not know that to be the case.

Q You did not, okay. And as I understand it, to have the Federal funds on that project, they had to have a minority business enterprise, which we refer to as "MBE". Were you aware of that?

A I was not aware of that.

Q If you would go back to page 269, right in the middle,

"Mr. Mullen: Yes, Senator, I would say serious effort has been made." Well, what do you mean by "serious effort", if they really didn't try to understand why Jopel was formed, what relationship it had with Schiavone, who owned Jopel, and who operated Jopel, how it was obtained from Nargi -- you know, you could ask a million -- well, not a million, but a thousand -- questions.

MR. OLSON: The witness said he did not know the answers to your questions. He did not say that that subject was not looked into.

SENATOR HATCH: Well, you see, the problem I have is, if he didn't know, then how could he say that it was a serious effort?

MR. OLSON: But Senator, it may have been reported to him that various things were done, various people were contacted --

SENATOR HATCH: Let the witness answer that.

BY SENATOR HATCH:

Q In other words, how did you know it was a serious effort if you didn't know?

A I can't recall at this time what I based my answer on there.

Q That could have been based on what other people told you who worked for you, though?

A Yes.

Q Okay. Do you recall being asked this question and giving the following answer by Senator Riegle, at page 270, just a couple of questions down:

"Senator Riegle: Now, Mr. Masselli, is Mr. Masselli a person against whom charges have been made, or is this a person who at any previous time has been the subject of conviction, or what would be his -- "

And your answer was : "I do not have any background whatsoever on him."

A I recall that, and by way of explanation, I was referring to my personal knowledge. There was some mention either in my opening statement or in the January 23rd report. I have nothing in addition to that. I did not have the personal knowledge.

Q Okay, but you did not know, yourself.

A I did not have the personal knowledge.

Q Down near the bottom of that same page, 270:

"Senator Riegle: But in an investigation of this kind, is it the normal procedure, if a person has been named as heading a company, to pursue the investigation without talking to that person?

"Mr. Mullen: Other factors enter into it, such as the ongoing investigation.

"The Chairman: Well, the next paragraph says, 'None of the New York sources was able to provide any information to show any specific misconduct on the part of Mr. Donovan.' What you are saying is you checked enough of your sources to be satisfied that this was -- "

And you said: "Plus records that were available to the New York office because it is an ongoing investigation. I am reluctant to say more about this."

And I say: "Plus, you checked the records of Schiavone?"

Your answer is: "That is right."

Now, how did the ongoing investigation preclude your talking to Masselli and other Schiavone officials?

MR. OLSON: The implication of the question is that Masselli was a Schiavone official.

SENATOR HATCH: No. Let me rephrase the question, then.

BY SENATOR HATCH:

Q Why did the ongoing investigation preclude your talking to Masselli and any Schiavone officials regarding that relationship and/or any other pertinent materials that the Committee would be interested in, or that the FBI would be interested in, including Magrini, if we have to put that in there?

A There may have been good reasons for not talking to Masselli, if he was the subject of investigation. There is often difficulty. You have to go through attorneys representing an individual who is under investigation or under indictment, but I know of no reason to prevent us from talking to officials of Schiavone. In fact, I thought we had talked to Schiavone officials at many points during the investigation.

Q Okay. But actually, you didn't know anything about it, other than what you have said here?

A Senator, I would have to read the report. I do believe the January 23rd report refers to interviews of Schiavone officials.

Q No. I think the question is, relating to Masselli.

A I am sorry, Senator. I am really not --

Q Let's go for just a couple more minutes, and then we will take a break. I am sorry. I had not even been thinking that it might be important to have a break here for you. I am sorry to keep you working like this.

Well, I even asked the question here, on the top of page 271:

"The Chairman: Plus, you checked the records of Schiavone?"

And your answer is: "That is right."

Actually, the Masselli matter is no longer an ongoin investigation, isn't that correct?

A I understand it is ongoing because of an outstanding fugitive in the case.

Q But only for that reason?

A That is my understanding.

Q So there is no real reason why you can't talk about it at this point, isn't that correct -- and furthermore, wasn't the fugitive with regard to the meat hijacking case, rather than to this matter?

A Senator, you have more knowledge than I do about the case. I have been away now over a year from the FBI.

Q You just don't know, okay.

Could I ask you what records of Schiavone did you check in connection with the Masselli allegations? Do you know? Do you remember what records you checked -- Schiavone records, that is?

A Senator, there is a listing of the documents checked and the extent of the investigation at Schiavone, but I believe that related to the Picardo allegations. So I am not certain of what was checked with regard to Masselli, not at this time.

SENATOR HATCH: Let's take a five-minute break.

(Whereupon, at 9:00 o'clock a.m., a short recess was taken.)

SENATOR HATCH: Back on the record.

BY SENATOR HATCH:

Q Mr. Mullen, let me refer you to page 271 of the hearing transcript, where Senator Riegle, in the first reference to him on that page, said:

"Should I be left with the impression here that you have not made direct contact with the Jopel Construction Company or with Mr. William Masselli, because that firm is the focus of another separate investigation? Presumably, you have records and documents as a result of that separate investigation. Do I further infer that you used that information as the basis of cross-checking in connection with Schiavone, and have not found any? Is that correct?"

Your answer is: "That is correct. We did not check them in this matter."

Then, Senator Riegle goes on again: "Then, I think this is a significant item. If you have another company that is the focus of an investigation, and it is an ongoing investigation, you clearly feel that you have something there that you are pursuing. You have an active case. I think it is very important to establish the degree to which there is any cross-connection here, either in terms of records, documents, orders, joint contracts, or even working contact. I think here, the personal relationships, if they exist, could be significant, and that is why I think it is important that we establish whether or not they do exist, and

I gather that we do not know the answer to that at this point."

Your answer: "Mr. Mullen: The records are available. Is that your question -- are the records available?"

"Senator Riegle: I assume that you have some records that are part of your other investigation."

"Mr. Mullen: Yes."

Then, Senator Riegle goes on: "You had access to and you looked at them, I presume, and you have not found a link with Schiavone. That is the inference of what you said. What I am saying is going beyond whatever the volume of records you may have has been an effort to establish clearly whether there is any other level of working contact between those two companies or the individuals that head them."

Your answer was: "Not in connection with this investigation. I am sure with the ongoing investigation, there has been extensive effort."

"Senator Riegle: So we do not know the answer to that?"

"Mr. Mullen: That is right. Perhaps the nominee could clarify that."

Now, were you saying that in the applicant's investigation of Mr. Donovan, there was no effort to establish clearly the contact between these two companies or the individuals that head them?

A What I was saying was not in the special inquiry investigation, but in the ongoing investigation in New York, that there would have been an effort to link the companies, if there was a link there, if there was some connection, or if they were involved in the investigation.

Q Were you also saying that in the ongoing criminal investigation of Masselli, you were sure that there had been extensive effort?

A Yes.

Q If the criminal investigation did check and find the answer, would not that have been pertinent to the applicant's investigation?

A Well, it would depend on the outcome of the check, but I do state here, Senator Hatch, that perhaps it is something that the nominee could clarify. He could well describe the relationship of his company with the companies in New York.

Q Well, I think what I am asking for here is your findings and your investigations.

A You are asking what those findings were?

Q Right.

A I do not know.

Q How did you separate the two investigations?

A The special inquiry and the ongoing --

Q -- and the Masselli investigation, yes.

A I'm not certain as to how they were separated or to what degree they were separated. In the special inquiry, we tried to concentrate on the nominee.

Q If you can, can you tell me what the criminal investigation of Masselli and Jopel revealed about the degree of contact between Schiavone and/or Ray Donovan and Masselli and/or Jopel? Do you know?

A I do not know.

Q On page 275 of the hearing transcript, there is the following exchange -- it is near the bottom quarter of the page, where it goes to "The Chairman."

I ask this question: "In your opinion as investigators, do you feel that had there been these types of associations by Mr. Donovan and/or his firm with known influences, you would have picked them up somewhere in this extensive investigation?"

Your answer was: "I think something would have come to our attention."

And I ask: "And you are saying nothing did?"

And your answer was: "Nothing has."

Now, Mr. Mullen, was that testimony truthful and accurate?

A Truthful and accurate, based on my knowledge at the time.

Q Now, there was some such information on the Masselli tapes, though, was there not, at that time -- but you just did not know about it, apparently -- or, should I say you consciously decided not to tell us about that?

A There is nothing at this point I consciously decided not to tell you on this one, no.

Q Well, you withheld the information that Donovan was on the Masselli tapes.

A You mean that one reference --

Q The one reference and the references to Ray.

MR. OLSON: I think he has testified he did not know about any other references at the time.

SENATOR HATCH: Right. Okay.

MR. OLSON: And I think he has testified that there is information in the January 23 report with respect to the contacts which were involved in that Masselli reference.

BY SENATOR HATCH:

Q But the point is, you certainly withheld the one reference to Mr. Donovan that you knew about on the tape.

MR. OLSON: The reference to the tape itself, but the January 23 report --

SENATOR HATCH: No, it is more than that. He did not tell us that Donovan was mentioned in the tape -- or, in the Masselli tapes. And he said he consciously withheld that.

THE WITNESS: I believe here, Senator Hatch, I am thinking -- it is hard to tell my state of mind at the time of the hearing a year and a half ago -- but I was thinking of the contact with all of the sources and so forth. With regard to the reference to the nominee, I do not like to use the term, "withheld". It was not mentioned, but --

BY SENATOR HATCH:

Q But you decided not to tell us about that.

A It was a matter, as you do prepare these reports, some things are not mentioned, but it is a bit difficult to go further at this point on that.

Q Well, had you made it a point to discuss it with Adamski whether or not to withhold the information or not tell about the information, or did you just make that determination yourself?

A Well, the nature of the discussion, as I recall it, would not be "withhold this or that", but, "Is this necessary to include?" So it is all in your perspective, I guess.

Q Okay. Now, a review of the Special Prosecutor's Report indicates a number of pertinent relationships between the upper management of the Schiavone Company and Mr. Masselli. Some were known to the FBI at the time of the hearings. Others may not have been, but could have been obtained by the investigation. It may have been pertinent to the Committee's considerations to have had that information.

Now, let me just ask you this. What was your knowledge when you testified about the following -- that Masselli had allegedly taken over by force the business of Louis Nargi as a subcontractor to the Schiavone Company, and that Nargi did not resist because of Masselli's organized crime connections?

MR. OLSON: You are asking the witness' state of mind --

BY SENATOR HATCH:

Q Did you know about that at the time you testified?

A I have heard this before, Senator Hatch. I cannot recall the exact time.

SENATOR HATCH: Let me show you an exhibit which we will mark as Exhibit Number 23 for this record. The date of transcription was February 20th, 1980. The date of interview, or at least, the date of investigation, was on February 9th and 12th of 1980, pertaining to Louis Robert Nargi.

(Exhibit Number 23 was marked for identification.)

BY SENATOR HATCH:

Q Are you familiar with this document?

A I am not.

Q You are not familiar with this document. Okay. But you were familiar with the fact that Masselli had taken

(REV. 3-8-77) EXHIBIT NO. 23

#23 8/12/82 Mullan

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 2/20/80

LOUIS ROBERT NARGI, 22 Clover Place, New Rochelle, New York (NY), was advised of the identities of Special Agents (SAS) SHAUN T. RAFFERTY, WALTER G. CARROLL and ROBERT A. LEVINS of the Federal Bureau of Investigation (FBI). He was told that he would be interviewed concerning his knowledge of the Nargi Contracting and Trucking Company, Jo-Pel Contracting and his relationship with WILLIAM MASSELLI, New York State Senator JOSEPH GALIBER and ROBERT SASSO of Local 282. NARGI, thereafte advised as follows:

NARGI was a partner in the Nargi Contracting and Truc Company with ED COLLINS who left the company prior to 1975. COLLINS had lived in Hartsdale, NY. After he left Nargi Contra he moved to California. Before COLLINS left the company, Nargi Contracting bid on a sub-contract from Schiavone Construction Corporation for subway excavation work at 21st Avenue and 40th or 41st Street, Queens, NY.

Before Nargi Contracting and Trucking Company actuall received the Schiavone contract COLLINS resigned from the firm.

Concerning MASSELLI's takeover Nargi Contracting and Trucking Company, NARGI advised that he has known WILLIAM MASSEI for 40 or 45 years. He had considered MASSELLI his best friend for many years. In fact, they joined the Navy together.

NARGI advised that about a week or two before the sta of actual work on the 21st Avenue Schiavone contract he, NARGI, asked for a $50,000 loan from MASSELLI. This loan was never committed to paper. It was simply an oral agreement between MASSELLI and NARGI. The loan was needed as Nargi Contracting needed a financial cushion before the start of the Schiavone contract. MASSELLI gave NARGI the $50,000 in cash. Some of the money was deposited irregularly in small amounts by NARGI into the Nargi Contracting and Trucking payroll account at the Natio Bank of Westchester (NBW) on Main Street in New Rochelle, New York. He also used some of the cash to cash some of his employees' payroll checks. Thereafter, NARGI would deposit the checks to the regular account at NBW. In addition, some of the cash was used to pay dumping fees. The condition laid down by MASSELLI to NARGI in exchange for the $50,000 loan was that NARG was to hire PATTY SIMONETTI. NARGI believed that the $50,000 was listed as a loan on the Nargi Contracting books.

on 2/9&12/80 at ~~New Rochelle, New York and~~ Plainview, New York File # NY 183-1290

WJC

by SAS WALTER G. CARROLL, ROBERT A. LEVINSON and SHAUN T. RAFFERTY/STR/cal Date dictated 2/15/80

Exhibit 64

While working on the 21st Avenue project, Nargi Contracting found number six oil in the ground. This required that the excavated dirt be trucked further away to a dump in Brooklyn. This hampered operations in both truck travel time an money. As a result, Nargi Contracting began losing money daily. NARGI then attempted to obtain additional operating funds from Schiavone but this was unsuccessful. NARGI, thereafter, asked for and received additional loans from MASSELLI. MASSELLI loans money via check to Nargi Contracting by transferring money from his Pellegrino-Masselli Meat Company account. MASSELLI, as a prerequisite for this arrangement, required that the Nargi Contracting checking accounts be transferred to the Manufacturer Hanover Trust Company bank on 149th Street, at Courtland, Bronx. NARGI never signed any papers for the opening of the account at Manufacturers Hanover Trust Company bank. MASSELLI also requir that he alone would sign checks on the new Nargi Contracting account. MASSELLI demanded and received at the time of this second loan, 30 percent of the profits from the 41st Street Schiavone job. This was the same bank which contained MASSELLI' businesses accounts.

NARGI recalled signing a paper at the office of an attorney named (First Name Unknown)(FNU) MACRI in White Plains, MASSELLI was also present. This paper was signed to show the ne loans to Nargi Contracting from Pellegrino-Masselli Meats. This paper stated that if NARGI died, Nargi Contracting would be responsible for the debt. This paper did not include the first $50,000 cash loan.

Later, another Schiavone sub-contract came up for bid. This was a job on Archer Avenue, Long Island City, NY. It was considered a good job as the ground to be excavated was largely sand. Nargi Contracting proposed a figure for a bid and this bi was supposedly acceptable to Schiavone. MASSELLI told NARGI tha AL MAGRINI of Schiavone told him that if they wanted this contra they would have to form a minority company. At this point, MASSELLI and State Senator JOSEPH GALIBER set up Jo-Pel Contrac as a minority company, in order to get the Schiavone sub-contrac job on Archer Avenue. This company was set up merely as a devic to circumvent a law requiring Schiavone to give a certain percen of their sub-contracts to minority companies. MASSELLI and NARG agreed that NARGI would be a silent partner and own no stock but he would receive 70 percent of the profits from the second Schiavone job. It was NARGI's understanding that MASSELLI and GALIBER would divide the other 30 percent. NARGI said he did no know how the Jo-Pel Company was set up in order to assure its minority status. GALIBER was brought in as a partner by MASSELL because he is a minority member and because MASSELLI thought GALIBER's political connections could get contracts for Jo-Pel. He did not know if GALIBER invested any money into Jo-Pel. NARG himself had suggested that MASSELLI and he (NARGI) utilize a company named "Hispan Am" as a minority company. Hispan Am was an actual company formed by [illegible]L ALBIZURI from West New York, New Jersey. MASSELLI, however, said that they would bring Senator GALIBER into this affair using him as the minority. MASSELLI sa GALIBER, through his political contacts, would bring in business

Subsequently, Jo-Pel obtained the Archer Avenue job from Schiavone. Later it again became necessary for NARGI to obtain an additional loan. After new negotiations with MASSELLI MASSELLI agreed to supply the additional money in exchange for his receiving 50 percent of the profits from both the 41st Stree and Archer Avenue Schiavone jobs.

On one occasion during this period, NARGI signed a paper in an attempt to obtain a loan. He did this under the directions of MASSELLI. NARGI does not believe this loan was ever obtained. At one time, the New York State Tax Department filed a $22,000 lien against the Nargi Contracting account at the National Bank of Westchester for failure to pay New York Sta withholding taxes. NARGI does not believe this debt has ever been paid.

NARGI had by this time lost all control over his comp
The time frame for this effective control of Nargi Contracting passing from NARGI to MASSELLI was approximately a year and a few months after the initial $50,,000 cash loan. The money utilized in the second and third series of loans was generated b MASSELLI drawing checks against the Pellegrino-Masselli Meat account and depositing them into the Nargi Contracting account. NARGI believes that the amount of these loans was approximately $15,000 to $20,000.

At this time, Jo-Pel and Nargi Contracting co-existed. In theory, Jo-Pel Contracting was renting trucks and equipment from Nargi Contracting in order for Jo-Pel to carry out the Schiavone Archer Avenue project. The rented equipment included dynaho, a 955 loader, 977 loader, pickup trucks and other items. NARGI advised that he is unaware of any rental fees ever being paid to Nargi Contracting by Jo-Pel.

NARGI became a salaried employee of Jo-Pel for approximately an 8 to 12 month period. During this time frame, Jo-Pel and Nargi Contracting were working on the two separate Schiavone contracts, both of which were personally being supervised by NARGI. After a time, NARGI observed five tractors and trailers on the Schiavone job sites. He determined that these were formerly owned by PETE MC DOUGAL who was going out of the construction business. NARGI estimates that each tractor and trailer was worth $30,000 to $35,000. He observed some documen concerning these tractors and trailers and he noted that they contained NAT MASSELLI's name and something like "W and M Leasing Company".

During 1978, having lost total control of the contrac businesses, NARGI "walked away" from the business after a heate argument with MASSELLI. MASSELLI kept all of NARGI's equipment and vehicles . NARGI advised that the vehicles' certificates o ownership were left with the Nargi Contracting trucks and that h never signed over his equipment and vehicles to MASSELLI or Jo-P

NARGI advised that the reason he "walked away" from th business was because MASSELLI knows all sorts of dangerous peopl and that the risk was too great for him to object to MASSELLI's takeover of his business. NARGI said that he "walked away" from his construction company at this time because he realized he cou not win. He knew that MASSELLI was a friend of PHILLIP BUONO whom NARGI knows as a "made guy" in the Mafia. He also knew tha to fight a "made guy" meant danger to him since the word on the street is that, "made guys hurt people".

The books for Nargi Contracting were kept by MEL JAFFE an accountant who worked for HARVEY BENNETT a New Rochelle, New York accountant. JAFFEE was laid off by BILLY MASSELLI after a period of time and NAT MASSELLI, who is MASSELLI's son and also an accountant, took control of the books.

The Nargi Contracting Company books were initially given to MASSELLI when MASSELLI made the second loan to Nargi Contracting. The books were later returned to NARGI. NARGI agai gave them to MASSELLI a second time about six months later when the Internal Revenue Service (IRS) claimed Nargi Contracting owe $12,000 in employment taxes.

Concerning other business relationships between MASSEL and Schiavone, NARGI advised that BOBBY LANZA, who lives in Staten Island, had had the trucking sub-contract for the Schiavo subway job on 63rd Street In Manhattan. LANZA, however, lost th job and MASSELLI, thereafter, took over this trucking contract. NARGI is unaware of the circumstances concerning MASSELLI's taking over of this trucking contract.

NARGI advised that he is unsure of the exact amount of money that MASSELLI loaned his company nor how much money was repaid to MASSELLI. This is because he was never given any writ documents concerning loans and their repayment and also because MASSELLI controlled all the books for Nargi Contracting, Jo-Pel, and Pellegrino-Masselli Meats.

over Nargi's business by force, and Nargi was afraid of him because of his organized crime connections, at the time of the January 27th, 1981 hearing?

A I am not certain if I was or not.

Q Okay.

A I could have been. I don't recall.

Q Were you aware that Schiavone Vice President Magrini was allegedly instrumental in invoking the Minority Business Enterprise requirement that led to the formation of Jopel and, of course, the takeover from Nargi?

A No, sir.

Q Were you aware that it was apparently Mr. Magrini who invited Masselli to accompany Mr. Schiavone and Mr. Donovan to a social function in June of 1979?

A Senator, would you repeat that question?

Q Apparently, it was Mr. Magrini who invited Mr. Masselli to accompany Mr. Schiavone and Mr. Donovan to a social function in June of 1979. Now, we get that out of the Special Prosecutor's Report on pages 524 and 525.

A I am aware of that now. I recall I was aware of a Schiavone official, not that it was Mr. Magrini.

SENATOR HATCH: I will put pages 524 and 525 from the Special Prosecutor's Report in the record at this point, as Exhibit Number 24.

(Exhibit Number 24 was marked for identification.)

BY SENATOR HATCH:

Q Wouldn't that have been a pretty important fact if you had known about that, or if somebody in the FBI had known about that?

A About --

Q That Masrini had suggested that Masselli, Schiavone, and Donovan get together for a social function.

A You are referring now to the reference --

Q You would have to admit that would be important if you had known about it.

A I would have to know the context, Senator Hatch, what we are talking about here, a social function, whether they actually went, and so forth. I believe this is the reference to the Secretary.

Q And what you are saying is it may or may not have been important, that it had to be put into context?

A Yes, sir.

Q Okay. I think the point we are trying to make here is that there were many aspects of the instance that we felt you had withheld from us, and that is, the Masselli tape; the reference to Donovan on the Masselli tape; references to "Ray"; and the circumstances surrounding that. Let me ask you this --

EXHIBIT NO. 24

Ex 24
8/17/82

E. Recording Date: June 26, 1979

Source: S.D.N.Y. 353

Reel #2 Footage 266

Microphone Surveillance

Speakers -- William P. Masselli (WPM)
-- Nat Masselli (NM)

WPM: It cost you a lot of money. You got a lot of expenses on these fucking trucks, too, you know. Tires, this and that, beep-bop. Cause of that you -- INAUDIBLE - You got just enough nine and six fifteen, eighteen pieces, twenty the most. That'd be enough -- INAUDIBLE --- -on this job----INAUDIBLE oh shit! I better get the plans. I got a job for two hundred thousand out in Gateway Park INAUDIBLE because he's now, now, now it's coming up Friday. If they get this bid, that's another job we got. We'll have to do the trucking on, and that's gonna start in 45 days you know, that ain't gonna be like the other one.

NM: uh-huh.

WPM: I told him, yeah I asked Magrini, he ways 30 to 45 days we'll go right to work on that if we get the contract.

NM: Which one?

WPM: The new one

NM: Oh yeah

WPM: Its one INAUDIBLE section coming out, that ain't like the other one.

NM: What did you talk to him yesterday?

WPM: Yeah, he was there too, I sat with him all night.

NM: What did he say?

WPM: Sit next to me--nothing--he got drunk. He had to
go and take a shower. He says I was getting dizzy,
he says I had to go inside and take a shower, INAU-
DIBLE and then he says where you going this after-
noon, I said I ain't going no place. He says you
wanna come to the affair? We're invited to INAUDI-
BLE. He says I got that two tickets. In fact he
says come on with me now, you wanna come with me-
-take you with the plane cause we're gonna go pick
up Ronnie and uh [illegible] Donovan and then we're gonna
go right up, we're gonna fly up to the, up to the
Hell am I gonna get home, I got my car down here in
Queens. So I said I'll meet you there. He says
I'll leave two tickets at the door for you and
Bobby DeFilippis. I called Bobby up.

NM: Oh yeah?

WPM: And he came. Yeah. Good thing we went. A lot of
guys didn't even know this. I hear Jopel, Jopel,
it's a, it's a phantom outfit he says, who you
[laughter]. That's us I said. Then another guy
said I see your trailers going around, who, who's
this? You'd be surprised the advertisement that
does you know.

A Excuse me, Senator. Could we go over those again?

MR. OLSON: Well, I don't think -- why don't you let the Senator ask the questions, because the Senator was summarizing --

SENATOR HATCH: Yes, I was just summarizing. I wasn't asking a question.

MR. OLSON: -- and stating a point of view. He wasn't asking a question.

BY SENATOR HATCH:

Q Were you aware that it was Mr. Magrini, as well as Mr. Masselli, whom the informants identified as the Schiavone Company's links with organized crime figures?

A Was I aware --

Q That Mr. Magrini, as well as Mr. Masselli, were links with organized crime figures.

A I am aware of that allegation now. I am not certain I was aware of it at the time of my testimony. In fact, I believe I was not.

Q Well, it was in the January 12th memo.

A But that is what I recall, Senator, at the time of my testimony. I do not believe that I did.

Q But you indicated you had read the memorandum a number of times, and you were aware of the contents of the memorandum, and all I am bringing out is that it was pretty well mentioned in there that Mr. Magrini was also a part of this as the Vice President of Schiavone.

MR. OLSON: I think the witness has said on a number of occasions that we are testifying now, 18 months later.

SENATOR HATCH: Sure, I understand.

MR. OLSON: It is difficult to remember today what he had in his mind on January 27, 1981.

SENATOR HATCH: I can accept that.

THE WITNESS: And if I could clarify, too, when I said I read the memorandum a number of times, I was referring to -- that was submitted to the Committee in the January 23rd memorandum, not the January 12th memorandum.

BY SENATOR HATCH:

Q Okay. Were you aware that Masselli allegedly paid for a trip to Las Vegas for Schiavone Vice President DiCarolis and his wife in 1977. Now, again, we find that in the Special Prosecutor's Report, pages 507 and 508, which we will put in the record as Exhibit Number 25.

A I was not.

(Exhibit Number 25 was marked for identification.)

BY SENATOR HATCH:

Q Were you aware that Masselli allegedly gave DiCarolis $20,000 cash in return for a $200,000 interest-free loan from the Schiavone Company after Jopel took over from Nargi -- again, that is from the Special Prosecutor's Report, page 508,

EXHIBIT NO. 25

Ex 25
5/17/82

> "start up" money for equipment needs and that this amount was repaid by deduction on the first seven payments by SCC to JOPEL, which he stated was done. IANNUZZI stated this contract was signed by a RICHARD CALLAHAN [sic] as a representative of SCC.
>
> MASSELLI stated his words "he had to do what he had to do" was not implied as a threat by him to LEVIN but merely was an expression he commonly uses. IANNUZZI added in dealings with SCC the use of court action to obtain a settlement of a debt may be construed as a threat to some individuals. MASSELLI stated he would review his records for a document which might be the DI CAROLIS document referred to by the interviewing agents and would provide a copy to the FBI if he could find it.

Exhibit 61 at 1-2.

ii. Initial Grand Jury Appearance

William Masselli testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

iii. Subsequent Statement to the Special Prosecutor

On May 17, 1982, prior to his second appearance before the grand jury, William Masselli was interviewed again by the Special Prosecutor. Among other things, Masselli said that in approximately March of 1976, Albert Magrini of SCC informed Masselli that Joseph DiCarolis was in Las Vegas, staying at Caesar's Palace. Masselli proceeded to arrange a complimentary stay for DiCarolis. Because he had no connections at Caesar's Palace, Masselli contacted a friend, Joseph Bugliarelli (also known as Joe Ross) to make the necessary contacts. Bugliarelli paid for the trip and Masselli reimbursed him. Masselli was unaware of any relationship between Bugliarelli and DiCarolis.[392]

Following DiCarolis' return from Las Vegas, DiCarolis thanked Masselli for the complimentary stay. Masselli did not believe that he had ever told DiCarolis that Bugliarelli was involved. Nor did he recall having mentioned to DiCarolis the name, Joe Ross.

The DiCarolis paper discussed by Masselli and Levin on December 28, 1981, was prepared by Joseph DiCarolis and given to Masselli in approximately August 1981 at SCC's office on East 62nd Street in Manhattan, or at a lunch at the nearby Il Vagabondo restaurant (the "Il Vagabondo luncheon"). According to Masselli, DiCarolis used the paper[393] to explain how much money Masselli had previously given to DiCarolis and how much DiCarolis believed he still had coming. In essence, DiCarolis was dunning Masselli for money.

Masselli proceeded through each item on the paper in order to explain each item. The first line of numbers on the document reflected that, in exchange for a $200,000 loan from SCC, Masselli paid DiCarolis $20,000 ~~in~~ cash.

The second item on the DiCarolis paper was intended to reflect a $12,000 overpayment by Jopel for two pickup trucks purchased from SCC. The totality of that payment, $132,000 for trucks costing SCC $120,000, was by check made payable to SCC.

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[392] Joseph Bugliarelli testified before the grand jury, pursuant to a writ of habeas corpus ad testificandum. [GRAND JURY MATERIAL DELETED.]

[393] A copy of which is annexed as Exhibit 62.

The third item reflected a $100,000 bond which Masselli had been unable to secure and which DiCarolis promised SCC would back for Jopel. To arrange this, DiCarolis wanted a $10,000 fee, and Masselli consented to paying $10,000 in cash if he obtained the job. The zero in the third column beside that entry reflected that Jopel never got the job so the $10,000 was never paid.

The next item on the DiCarolis paper reflected a dispute between SCC and Jopel concerning a contractual agreement on the 63rd Street job. Jopel agreed that it would share 50/50 with SCC the proceeds of any excavated materials which Jopel was able to sell. Masselli had been paid more than $30,000 for certain rock and a $15,000 partial payment given to DiCarolis. The question mark indicated an unresolved issue as to how much additional rock had been sold and how much more cash was owing.

Significantly, Masselli indicated that he was paid by check by the person to whom he sold the fill which he hauled out of the 63rd Street job. Despite the fact that Jopel was thus constrained to reflect the full amount as income on its tax return, Masselli said that the company took no deduction for the cash payments made to SCC pursuant to the SCC/Jopel contract. Joseph DiCarolis was the person who principal reasons that SCC awarded Jopel the contract.[404]

When SCC consented to Jopel's assumption of Nargi Contracting's subcontract on the Vernon Boulevard job, DiCarolis was unaware that SCC would subsequently be asked to lend money to Jopel. However, as an advance on Jopel's subcontract on the Section 5B portion of the 63rd Street job,[405] SCC did advance $200,000 to Jopel initially. Thereafter, a $100,000 advance was made on the same subcontract. DiCarolis made the initial $200,000 loan entirely on his authority, speaking neither to Ronald Schiavone or Raymond Donovan about the matter. He did not know when either of his two superiors first learned of that loan.

Prior to authorizing the loan to Jopel, DiCarolis did not review any financial statement or other financial information. He considered Jopel obliged to repay because the advance was to be recaptured as the contract was performed, and Jopel was obliged to perform the contract. SCC simply issued Jopel a check.[406]

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[404] At the time that Masselli approached DiCarolis to assume Nargi Contracting's subcontract, Masselli had no background in construction. DiCarolis knew that Masselli had been on the job site with Nargi. DiCarolis assumed that he was in no worse position if Masselli took over Nargi's contract because Nargi owed Masselli money and Masselli could have "put a lien on" or taken other action detrimental to the progress of the job. Masselli informed DiCarolis that he would take over Nargi's work at Nargi's prices.

[405] I.e., that portion of the 63rd Street job extending from 3rd Avenue to the East River. See note 5, supra.

In the discussions concerning the Jopel subcontract on Section 5B of the 63rd Street job, Masselli informed DiCarolis that Jopel needed money for trucks. That was the genesis of the $200,000 loan. DiCarolis did not know the reason for the subsequent $100,000 loan, other than that Magrini came to him for authorization. The $100,000 was loaned after the initial $200,000 had been repaid. At the time the loans were floated, DiCarolis knew nothing of Masselli's background. The news stories concerning Masselli's organized crime connections in early 1980[407] were a complete surprise to him. While getting to know Masselli, however, DiCarolis suspected that Masselli might be involved in the numbers racket.

Magrini and Masselli negotiated the terms of the Section 5B subcontract. A cost-plus contract was ultimately agreed upon. DiCarolis preferred this arrangement for two reasons. First, it afforded SCC considerable leeway in dictating extra shifts, and the like, to Jopel, helping to insure the steady progress of the project. Second, it operated to build up the volume of work for Jopel, a qualified MBE.[408]

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[406] That check was subsequently provided to the Special Prosecutor by SCC. It was signed by both Joseph A. DiCarolis and Raymond J. Donovan.

[407] *See*, e.g., H. Blum, "Br x Corruption Inquiry Pursuing Financial Data," *New Yo Times*, Feb. 14, 1980, at B12, cols. 1-3; H. Blum, "90 ours of Tape Spur Bronx Crime Inquiry," *New York Time* March 22, 1980, at 25, cols. 4-6; A. Lubasch, "Meat pany Head and 8 Others Accused of Hijacking Food Truck *New York Times*, May 15, 1981, at B3, col. 1.

Also in order to build up the volume of Jopel's work, the S-I-C joint venture purchased approximately $1 million worth of equipment which it rented to Jopel. Jopel never made any payments on the equipment, however. Rather, Jopel billed SCC for the work, including the rental charge. SCC deducted the equipment rental charges from amounts due Jopel and paid the remainder of the bill. The net effect was to increase the amount of work attributable to a minority business enteprise.

With respect to the DiCarolis paper, DiCarolis stated that at some point in time he wrote down figures on a piece of paper for Masselli. Masselli had come to DiCarolis complaining of the lack of profitability to Jopel of the 5B subcontract. Masselli complained that he could not meet his expenses. DiCarolis surmised that Masselli probably had also learned that certain other MBE subcontractors on the Section 5B portion of the 63rd Street job had a 10% cost-plus contract whereas Masselli had a 7-1/2% contract. In response, DiCarolis went through the other values provided by SCC to

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[408] DiCarolis stated that Federal regulations required that 10% or 15% of the total dollar volume of the Section 5B contract be subcontracted to minority business enterprises. (SCC subsequently provided the contract which specified 10%. S.P. no. 351981. *See* note 498, *supra*.) The Section 5B contract was a $185 million project.

Jopel in addition to the 7-1/2% profit margin. As set forth by DiCarolis,[409] those values included:

1. Trucks = $12,000. Jopel, having previously ordered trucks that were delayed in delivery, purchased two new dump trucks from SCC. The price that Jopel paid was less than that which it was able to secure on its own. While DiCarolis had originally thought that SCC sold the dump trucks to Jopel at cost, he later learned that the price charged included a subsequent price increase. However, even including the subsequent price increase, the price paid by Jopel for the trucks was less than that which Jopel had previously secured on the market. Therefore, while the $12,000 figure on the DiCarolis paper was an overstatement of the true savings to Jopel (because of its inclusion of the subsequent price increase), DiCarolis believed that Masselli nonetheless was saved a total of approximately $8,000.[410]

2. The cost of interest on two interest-free loans totalling $300,000 = $30,000.[411]

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[409] No copy of the DiCarolis paper had been produced to the Special Prosecutor as of the date of the January 15, 1982, DiCarolis interview and none was accessible to DiCarolis for review during that interview.

[410] DiCarolis allowed that there may have been some differences in optional equipment on the trucks sold by SCC to Jopel than those earlier ordered by Jopel independently.

[411] DiCarolis' recollection on this point was in error in that no cost-of-money value was assigned on the DiCarolis paper to the $100,000 loan. As noted above, no copy of the DiCarolis paper was present for DiCarolis to review.

and Magrini. At the time, Donovan did not know even that Jopel was an MBE.

Mr. Donovan never attended any meetings or dinners in Florida with Masselli. Further, he denied ever having taken any flights by airplane or helicopter with Masselli. He disclaimed any role in Masselli's becoming an SCC subcontractor.

The advances from SCC to Jopel the Secretary considered not a typical practice in the industry. While he was certain there must have been contemporaneous discussions among SCC executives regarding the Jopel loan, he was not privy to them. While the Secretary did not recall ever signing a $200,000 check to Jopel, he said it would not be unusual for him to have signed a check for $200,000 without noticing the amount.

iii. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

g. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan with respect to his testimony before the grand jury concerning the Masselli-related allegations.

ii. The Special Prosecutor

There is not sufficient credible evidence to conclude that the Secretary was untruthful when he testified before the grand jury or before the Senate Labor Committee as to his relationship with William Masselli. There are insufficient made and, by order of court,[396] the Special Prosecutor secured access to them. From February 8 to April 8, 1982, six agents of the Special Prosecutor devoted their full-time efforts to a review of all 857 of the so-called Tumcon[397] recordings. The agents listened with particular attention for (a) any conversations in which Mr. Donovan himself spoke[398] (b) any conversation in which Mr. Donovan's name was mentioned; and (c) any potentially criminal conduct on the part of Secretary Donovan or anyone else associated with SCC. After all of the tapes had been reviewed, the agents confirmed the accuracy of their results with the assistance of the FBI's Soundex computerized indices search system.

Mr. Donovan's voice was not recorded on any of the Tumcon tapes. His name was mentioned in six conversations. There was nothing incriminating in any of the references to him, nor anything suggestive of a relationship between Mr. Donovan and Masselli.[399] A verbatim recital of the relevant sections of every conversation in which Mr. Donovan's name was mentioned is set forth below.

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[396] United States v. Masselli, Nos. 81 CR 325 (LWP) and 81 CR 342 (MEL)(S.D.N.Y. Feb. 5, 1982) (MacMahon, C.J.).

[397] I.e., To Uncover Masselli Conspiracy.

[398] The FBI, at the request of the Special Prosecutor, obtained from the Secretary a voice exemplar for the reviewing agents' use.

[399] The same was not true of all SCC executives. The tapes reflected that Senior Vice President Richard Callaghan, for example, spent a weekend in Masselli's Florida condominium.

and Toomajohn who arrived on Saturday, January 20, 1979.

William Masselli secured the Superbowl tickets for Liguori. Liguori met Masselli in Florida on either the Thursday or Friday evening preceding the Superbowl in order to pick up the tickets. When they met, Masselli was in the company of approximately eight others; Raymond Donovan was not among them, and Masselli made no reference to Mr. Donovan.

Liguori did not see Mr. Donovan in Miami before, during or after the Superbowl game. He had no knowledge whether the Secretary attended the Superbowl in 1979, although he doubted it because Mr. Donovan was known to him as a soccer fan who was not overly fond of football. Masselli never mentioned Mr. Donovan's name to Liguori in connection with the 1979 Superbowl.

In connection with the Superbowl, Liguori advised that he did participate in a pooled bet on the outcome of the game. There was a total of $500 in the pool, each participant having contributed $50. William Masselli held the money. Liguori's brother, Louis, won the pool. Well after the game, Masselli gave the $500 to Liguori to furnish to his brother because Louis lived outside the country.

ix. Contemporaneous FBI Investigation of Masselli's 1979 Superbowl Trip

In connection with an ongoing criminal investigation, agents of the Federal Bureau of Investigation photographed individuals aboard the Delta Airlines flight that carried which we will include in the record as Exhibit Number 26. Were you aware of that?

A I was not.

Q Were you aware that Mr. Donovan, along with Mr. DiCarolis, signed the check for the $200,000 interest-free loan? That is in the Special Prosecutor's Report, page 544.

MR. OLSON: Is this an allegation of that, or a statement of a fact?

SENATOR HATCH: This is the finding of the Special Prosecutor, as I understand. We will put that into the record at this point as Exhibit Number 27.

Well, let's just make all of these Exhibit 25, all of these references to the Special Prosecutor's Report that we are referring to in this context.

BY SENATOR HATCH:

Q Were you aware at the time?

A (Shaking head.)

Q Okay. Now, let's put these in the context of January 26, 1981, so you will know what we are talking about. Were you aware that DiCarolis arranged for a second interest-free loan for $100,000 for Masselli at the request of Magrini -- and that is in the Special Prosecutor's Report pages 543 and 544.

A I was not.

SENATOR HATCH: We will make that part of Exhibit

25, as well.

BY SENATOR HATCH:

Q Were you aware that Masselli allegedly was supposed to pay $10,000 in cash to DiCarolis for this loan, but did not?

A I was not aware.

SENATOR HATCH: That is found in the Special Prosecutor's Report, page 509.

MR. OLSON: Will these exhibits be made a part of the transcript, Senator?

SENATOR HATCH: Yes, we are making them part of the transcript and part of the record.

MR. OLSON: Because the first two volumes of the transcripts have not had the exhibits attached, and at some point, I know the witness will want to review the transcripts.

SENATOR HATCH: I assume we will attach the exhibits to the final volume pertaining to your interrogation here.

BY SENATOR HATCH:

Q Were you aware that DiCarolis and Magrini allegedly arranged for Schiavone to buy $1 million worth of equipment, which was leased to Masselli? That is found in the Special Prosecutor's Report, page 545, which we will make a part of the record. In fact, all of these for the rest of the questions, we will make part of the record as Exhibit 25.

A I was not.

Q Were you aware that Di Carolis knew, when Masselli took over Nargi's business, that he had no background in construction, yet did not review any financial information concerning Jopel or Masselli prior to the $300,000 in interest-free loans?

A I was not.

Q That is the Special Prosecutor's Report, page 543.

Were you aware that Schiavone Vice President Callaghan spent a weekend at Masselli's condominium in Florida?

A I was not.

Q That is the Special Prosecutor's Report, page 512.

Were you aware that Masselli obtained tickets for the 1979 Super Bowl for Schiavone Vice President Liguori?

A Senator, I do recall a Super Bowl allegation, but not the specific allegation which you have just stated.

Q Okay. That is the Special Prosecutor's Report, page 562.

Were you aware that Schiavone Purchasing Agent, Jack Frost, solicited $1,000 in cash from Masselli for a fundraiser at Mr. Donovan's house during the 1980 Presidential campaign -- that is in Special Prosecutor's Report, page 522?

A I was not.

SENATOR HATCH: I will make that last one from the

Special Prosecutor's Report a separate Exhibit Number 26, because that is a reference to the overhear, recording date June 4th, 1979.

(Exhibit Number 26 was marked for identification.)

BY SENATOR HATCH:

Q Now, all of this information, had you known about it, would have been pertinent to the Committee, right?

MR. OLSON: I think that that question is somewhat unfair. You have been reading those rapidly out of the Special Prosecutor's Report. The witness has not seen them in context. That is a long report. I am not sure that the witness knows whether those are statements of facts or allegations, whether they were proved or disproved, or what the context was.

SENATOR HATCH: Well, as I understand it, these were proven statements, or at least, statements that the Prosecutor has treated as statements of fact.

MR. OLSON: Well, some of them, as you read them, you referred to them as allegations, Senator.

SENATOR HATCH: Well, yes, I have been characterizing them as that, but since they are in the Special Prosecutor's Report, assume that the Special Prosecutor found these as statements of fact and found them to be basically true.

BY SENATOR HATCH:

EXHIBIT NO. 26

Ex 22
904#
8/12/82
Mollan

MEMORANDUM

D. Recording Date: June 4, 1979

Source: S.D.N.Y. 351

Reel #1 Footage 298

Telephone Surveillance

Speakers -- William P. Masselli (WPM)
-- Jack Frost (Frost)
-- Schiavone Construction Company Operator (SCC)

SCC: Good Afternoon, Schiavone

WPM: Yes, Honey how are you?

SCC: Fine, how are you?

WPM: Not too bad, a little rained in here but not too bad.

SCC: I know what you mean.

WPM: Give me Jack Frost.

SCC: Ah, gee Mr. Masselli, his line is busy. Can you hold for him?

WPM: I'll hold on a few minutes.

SCC: Thank you.

WPM: My name is Masselli.

(Approximately 45 second wait on open line)

SCC: Mr. Masselli it's still busy.

WPM: I'll hold on a few minutes.

SCC: Okay

WPM: Thank you.

(Approximately 25 second wait on open line.)

SCC: Mr. Masselli

WPM: Yeah.

SCC: Here we go.

WPM: Okay

WPM: (Debby, hold that up) (talking off phone)

FROST: Hello

WPM: Jack Frost.

FROST: Yeah, Bill.

WPM: How you doing?

FROST: All right and yourself?

WPM: What can I do you for? Not too bad.

FROST: Ah. Bill I got, I, I don't have my uh Schiavone Construction Company hat on right now.

WPM: Okay.

FROST: I got my rag picker beggar hat on.

WPM: I like that.

FROST: You don't like the rag picker hat?

WPM: Yes, I like that better. Okay

FROST: I got my rag picker beggar hat on.

WPM: What do ya need?

FROST: Here's what we're doing.

WPM: Wha

FROST: It's strictly a Jersey operation and I know you're strictly New York.

WPM: So what?

FROST: So what. Alright. What we're involved in, we got a club going. Ronnie and and ah and Ray Donovan have a club going.

WPM: Yeah.

FROST: Called the Ronald Reagan for President club.

WPM: Ronald Reagan for President.

FROST: President.

WPM: I like that.

FROST: Okay. Ronald Reagan is coming to Ray's house on Monday.

WPM: Okay.

FROST: In Short Hills

WPM: Yeah.

FROST: I'm not invited and you're not invited and nobody else is except those people who are in the Republican Party in the state and so forth.

WPM: Uh, huh.

FROST: But what INAUDIBLE are going to do

WPM: Uh, huh

FROST: is give this guy here, you know, a wad we're going to give him.

WPM: Yeah.

FROST: Green

WPM: I understand.

FROST: Well, The Ronald Reagan for President

WPM: Yeah.

FROST: Is a thousand dollar club.

WPM: Right.

FROST: There are sixteen people that I'm involved with.

WPM: Right.

FROST: And you're one of them.

WPM: Okay

FROST: And it's legal. There's no problem with the legality of it. You can make a thousand dollar donation uh Ronald Reagan for President, legally.

WPM: No problem.

FROST: It is not, Bill, and I'm not bullshitting ya. It is not tax deductible.

WPM: I understand. Don't say no more. You said enough

FROST: Okay.

WPM: Count me in.

FROST: I got, I got one problem which is a time problem.

WPM: What?

FROST: Shut it out at noon time on Friday.

WPM: You'll have it by Wednesday.

FROST: Okay.

WPM: Okay, no problem.

FROST: Thanks, Bill.

WPM: Okay. Maybe tomorrow too.

FROST: Okay my friend.

WPM: I'll give it to somebody to give it to you.

FROST: Very good.

WPM: Thank you.

FROST: I appreciate it.

WPM: Bye, Bye.

FROST: Thanks, Bill

Q It is apparent you did not know about them, so I can't blame you for not knowing about them, and I don't intend to blame you for not knowing about them, but had you known about them, this information would have been very pertinent to the Committee, right?

MR. OLSON: Senator, that is calling for speculation of a witness that is under oath. I don't think that is an appropriate question for him to answer.

SENATOR HATCH: Well, this isn't a court of law, so I am asking him to answer the question anyway.

BY SENATOR HATCH:

Q Wouldn't you consider all of those matters of import since Jopel was specially formulated to take over Nargi's business as a minority business enterprise to do business with Schiavone, and all of these allegations that the Special Prosecutor seems to have found to be fact indicate that the relationship was a very ongoing and very involved one with Mr. Masselli, who is in jail today.

MR. OLSON: It is only appropriate for me, Senator, to interpose an objection to that extraordinarily complex question, which calls for speculation and calls for a conclusion. You are asking a witness who is under oath to answer that kind of question.

SENATOR HATCH: Well, let me just say this, and let me put this on the record, that had you conducted the investigation and found these matters out, as the Special Prosecutor did, then these would have been very pertinent and important to this investigation and to this record.

MR. OLSON: I have the same observation and objections.

SENATOR HATCH: Are you directing the witness not to answer?

MR. OLSON: Well, I am not sure what procedures we are following here.

SENATOR HATCH: It is not a court of law. We are just trying to get -- I mean, you'd have to admit those are important observations by the Special Prosecutor.

THE WITNESS: May I consult with Mr. Olson?

SENATOR HATCH: Surely.

(Witness conferring with counsel.)

MR. OLSON: Mr. Chairman, I am not instructing the witness not to answer. I under the procedures --

SENATOR HATCH: If I were in your shoes, I'd say, "Yes, that would all be important."

Here is what I would say: "Yes, that would all be important; assuming those facts are the facts and that they are true, that would all be important. However, we didn't know about all those factors," you know, if you didn't.

MR. OLSON: And the witness didn't know about -- as he has testified, he did not know about those things either, and you are asking him to speculate about what would have been serious, or what would have been pertinent, 18 months ago, out of context.

SENATOR HATCH: No, but here is the way I would have answered that. He has answered he did not personally know about any of these allegations. As far as he knows, the FBI probably didn't know about any of those allegations -- he has not said that, but I am assuming that is so. I think what I would say if I were in his shoes is, "Had I known about those things, yes, I'd consider them important."

MR. OLSON: Well, I am not sure I understand what the relevance of it is anyway, if he did not know, and --

SENATOR HATCH: Well, because of the relationship with organized crime and the allegations that now appear to have been at least made against Mr. Masselli, Jopel, Magrini, Schiavone, DiCarolis, and all in relationship to Mr. Donovan.

MR. OLSON: I understand, Mr. Chairman, but you are talking about allegations and factual assertions which you have read out of a relatively long report --

SENATOR HATCH: Well, I agree. It isn't important when we make a record whether or not you think it is pertinent. I think it is pertinent. I think that had the FBI conducted a full and thorough investigation -- and I have to admit you have had lots of pressure on you -- I am not finding fault in the purest sense that you didn't conduct this thorough investigation, because you had pressure. I was -- Senator Kennedy and I were pressuring you to get this investigation. We wanted to have all we could so that Mr. Donovan could be confirmed or not confirmed as early as possible, and we felt concerned. So I understand why, in retrospect, there was a more thorough investigation done by the Special Prosecutor than there was done by the FBI. So I do not have any problem with that. All I am saying is that these things are very important in my eyes at this point. Had we known them then, perhaps Mr. Donovan could have clarified, explained them away, or otherwise refuted them, and this cloud that has been over his head right up to the Special Prosecutor's report and some say even afterwards, would have been dissipated, it seems to me, and done away with.

MR. OLSON: I think it has to be said that the Special Prosecutor had vast resources, months of time, many agents, a Grand Jury, the power to subpoena --

SENATOR HATCH: I agree with that -- and a specific mandate.

MR. OLSON: -- and a specific mandate, and he came up with a report that was something, as I understand it, in excess of 1,000 pages long, and I think --

SENATOR HATCH: And that would have been very difficult to do within the context of the Donovan investigation pre-confirmation. No, I agree with that; I don't have any problem. But my problem is, did the Bureau even make a real stab on this stuff. You see, this is not insignificant material. And again, in retrospect, it is always easier to criticize, so I am giving credit for that, too. But I am saying there didn't even seem to be a stab made to really find out more about Masselli, Jopel, the relationships, these loans, and everything else that went on.

MR. OLSON: Well, I think, Senator, it is probably appropriate -- I think you are making observations and stating your point of view with respect to it, and I think in fairness to --

SENATOR HATCH: And I think the point of view of our Committee, too.

MR. OLSON: That may be, and I am not quarrelling with that at all. I would like, in fairness to the witness, for him to simply answer factual questions as you ask them.

SENATOR HATCH: Well, let me ask a factual question.

BY SENATOR HATCH:

Q It is apparent that the FBI did not conduct as thorough an investigation as the Special Prosecutor, and that you did not have this information in your possession as head of this unit at the time; isn't that correct? And whether that is to be criticized or not, I cannot make that determination. Personally, I would not criticize you for it, but others might.

A I do not know the date of these allegations, the source and origin of them. We -- that is, the FBI, conducted a special inquiry investigation of the nominee and concentrated on him. Now, it is obvious that the Special Prosecutor's investigation of many other allegations was more time-consuming and more thorough.

Q Well, this Exhibit Number 23, referring to Louis Robert Nargi, was, of course, a transcribed document as of February 20th, 1980. And the tape reference, which we marked as Exhibit 24, was a recording date of June 26, 1979.

MR. OLSON: Senator, the witness has not seen Exhibit 23 before. It is five pages long, and if you are going to ask questions about it, can he have an opportunity to read it?

SENATOR HATCH: All I am saying is we did not receive these materials at the time, you see.

MR.OLSON: Well, apparently, the witness has not seen this document before, and it seems fair to me, if you are going to ask him questions about it, that he be given an opportunity to read it.

SENATOR HATCH: Why don't you take that and review that? I don't know that we are going to finish today. I was hoping that we could. We are pretty close, but it does take a lot of time to answer these questions. If we don't today, we will finish, I feel confident, the next time -- at least, I hope so. And I am trying to find some time where we can put an extended period of time together so we are sure to finish the next time.

BY SENATOR HATCH:

Q On page 261 of the hearing testimony, I began reviewing the January 23rd, 1981 report with you. On page 262, I read from the first paragraph of the report the following, right at the top of page 262:

"The check did disclose that the Schiavone Construction Company, Secaucus, New Jersey, which is partially owned by Mr. Donovan, is involved in a current FBI investigation under the Federal Racketeer Influence and Corrupt Organization, RICO, statute, wherein records of the SCC were subpoenaed by a Federal Grand Jury, but Mr. Donovan was not subpoenaed."

I then asked: "And with regard to that particular incident, what is that referring to?"

Your answer was: "That is an ongoing investigation in our New York Office of several companies."

And I asked: "Basically, as they pertain to Harry Gross?"

And your answer was: "That is correct."

Now, my question today is, didn't the section of the report that I read actually relate to the investigation of

Masselli and Jopel? In fact, wasn't it the next segment of the report that I read that actually related to the Gross investigation?

A That could well be the case, Senator Hatch. The Harry Gross matter was but one part of that overall investigation, and as we can see, reading further, Mr. Adamski apparently caught that --

Q You testified earlier today that that section referred to Jopel, as I recall.

MR. OLSON: I think the witness was about to point out, a few lines lower on the section on page 262, that Mr. Adamski interrupted at that point in the questioning on January 27th --

THE WITNESS: And elaborated.

MR. OLSON: -- and elaborated and added further information, and then you went back and asked some more questions about it.

BY SENATOR HATCH:

Q Well, isn't it a fact that Harry Gross didn't have anything to do with that investigation? Actually, there were two separate investigations.

A I'll have to go back and look at that January 23rd --

Q That is something you will need to give us a response on, then, because I think that they comprised two separate investigations, and Gross had absolutely nothing to do with that one.

A That could be, Senator. To the best of my knowledge,now, that information came up --

Q Okay.

A I can check --

MR. OLSON: If we are going to check, let's make sure that we both understand, we all understand, exactly what it is we are going to check, so we can supply you with the correct response to your question.

SENATOR HATCH: Okay. I want to know if the section of the report that I read on page 262 actually related to the investigation of Masselli and Jopel. It is my understanding that earlier in this discussion today, Mr. Mullen said it did. And the second question is, wasn't it the next segment of the report that I read that actually related to the Gross investigation, instead of this section. Mr. Adamski answered that there was more to it than the Gross investigation, and I am saying they were two separate investigations. So I hope that will give you enough basis to --

MR. OLSON: Well, and to further clarify, the two segments of the January 23 report which you read into the record on January 27, 1981, are two consecutive sentences in the first paragraph of the January 23 report. And your question, as I understand it, is did the first of those two sentences refer to the Jopel matter. Is that correct?

SENATOR HATCH: The Jopel matter, right.

MR. OLSON: All right.

BY SENATOR HATCH:

Q Now, on page 283 of the hearing record, I again referred to the first paragraph in that January 23rd, 1981 report, which we now know pertained to the Grand Jury investigation of Masselli. And I, over on page 283, the second sentence and the last sentence, where I ask a question The first allegation was -- and I think we have already gone over this -- was the one we discussed earlier concerning Harry Gross," and Mr. Adamski answered, "That is correct."

Now, there was another opportunity to explain that that first paragraph pertained to Jopel-Masselli, not Gross, and yet Adamski again answered as though it pertained to Gross.

You can see why the Committee was misled on this.

A I certainly can't, Senator Hatch. I wish you would elaborate and clarify it for me.

Q Well, you testified today that that first paragraph applied to Jopel-Masselli.

MR. OLSON: I thought that was the question we were going to answer.

SENATOR HATCH: No. I thought earlier today, he indicated --

THE WITNESS: There could be some confusion on the facts here, Senator.

SENATOR HATCH: Why don't you go over the transcript and see if you can clarify it for us, will you?

THE WITNESS: Sure.

SENATOR HATCH: And if there is a mistake, let's admit it and get it corrected in the record.

BY SENATOR HATCH:

Q Now, let me ask you this. At the time of the January 27th hearing, you indicated in response to a question by Senator Kennedy that none of Mr. Picardo's allegations had been corroborated.

MR. OLSON: May we have the page?

SENATOR HATCH: I do not know where it is.

BY SENATOR HATCH:

Q Do you recall saying that when Senator Kennedy asked you if any of Mr. Picardo's allegations had been corroborated? You said: "I would say that none of them have been corroborated."

MR. OLSON: Senator, I think the witness simply has to look at that in context before he can answer that question.

SENATOR HATCH: (Perusing documents.) We will have to fish that out. For some reason, I haven't got the page on that. While we are looking for that -- and we will probably have to bring that up in the next hearing -- let's clarify some of the things that we have gone through in the past that we have asked you to clarify.

BY SENATOR HATCH:

Q You have given us the date that you became Executive Assistant Director, but you didn't give us the date when you became Assistant Director. If you could provide that for us, we would appreciate that.

A I have that right here.

Q Do you have that right there?

A The date that I became Assistant Director of the Criminal Investigative Division was August 7, 1979.

SENATOR HATCH: At this point, let's put into the record at this point and as Exhibit Number 27, a U.S. Department of Justice Office of Legislative Affairs letter to me, with a stamp on it, dated August 17th, 1982, from Robert A. McConnell, with a copy to Senator Edward M. Kennedy, Ranking Minority Member.

(Exhibit Number 27 was marked for identification.)

BY SENATOR HATCH:

Q Question 5, I want to specifically refer to, where it says, "Did the HOFEX files reveal the name SCC or Donovan in December of 1980?"

The answer is: "Not to the knowledge of the FBI."

The question was: "If not, why did Director Webster's memorandum state that there were references to Schiavone, spelled 'C-h-i-v-o-n-e', in Mr. Webster's

U. S. Department of Justice
Office of Legislative Affairs

27
8/17/82
Mullen

EXHIBIT NO. 27

Office of the Assistant Attorney General

Washington, D.C. 20530

17 AUG 1982

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Hatch:

This responds to certain questions raised by Chairman Hatch during the sworn testimony of Francis M. Mullen, Jr. before the Senate Committee on Labor and Human Resources on August 11 and 12.

1. Question: When did Mr. Mullen become Executive Assistant Director of the FBI?

Answer: Mr. Mullen became Executive Assistant Director -- Investigation on June 5, 1980.

2. Question: Was Jopel Construction Co. the subject of an FBI investigation in December of 1980?

Answer: A case referred to as TUMCON was an active FBI investigation in December, 1980. TUMCON was an investigation of William P. Masselli. At that time, Masselli had gained control of Jopel Construction Co.

If so, identify the FBI field office or offices responsible for the investigation and the Special Agent or Agents in charge of these offices at that time.

Answer: The Special Agent in charge of the criminal division of the relevant office, New York, was Richard T. Bretzing.

3. Question: Was Schiavone Construction Company (SCC) the subject of an FBI investigation in December of 1980 involving alleged extortion by Harry Gross:

Answer: There was an investigation of Harry Gross by the New York office of the FBI in December, 1980.

If so, identify the FBI field office or offices, and the Special Agent or Agents in charge of these offices at that time.

Answer: New York Office, Richard T. Bretzing, Special Agent in Charge, Criminal Division, New York.

4. Prior to December of 1980, to Mr. Mullen's knowledge, was SCC the subject of an FBI investigation because of Montuoro's allegations regarding ghost employees?

Answer: The FBI was not investigating allegations by Montuoro concerning SCC's alleged ghost employees in December of 1980 or at any time previous thereto.

If so, identify the FBI field office or offices responsible for the investigation and the Special Agent or Agents in charge of these offices at that time.

Answer: Not applicable.

5. Question: Did Mr. Revell check the OCIS regarding Mr. Donovan?

Answer: Yes. In December, 1980. Nothing was found.

Question: What documents substantiate this?

Answer: Mr. Mullen cannot now recall reviewing any documents relative to this subject. His memory is based upon his conversations with Mr. Revell.

Question: Did the HOFEX files reveal the name SCC or Donovan in December of 1980.

Answer: Not to the knowledge of the FBI.

Question: If not, why did Director Webster's memorandum state that there were references to Schiavone (spelled Chivone in Mr. Webster's memorandum)?

Answer: The FBI has been unable to reconstruct the source of the information articulated by Director Webster in the December 15, 1982 Memorandum. However, there is no record beyond the Director's 12/15/80 memorandum of which the FBI is aware reflecting such a check of the HOFEX records in December of 1980. The HOFEX records have been recently checked twice for references to Donovan and Schiavone and no such references have been found.

6. Question: Will the FBI furnish to Chairman Hatch a copy of the teletype referenced in the January 12, 1981 memorandum?

Answer: Yes, under conditions appropriate to the protection of the life of the informant referred to in the teletype. This will be handled in a separate letter to Chairman Hatch.

7. Question: Will Mr. Mullen furnish copies of pertinent pages of his visitor appointment log for the period December 1980 to February 1981 which indicate any meetings regarding the Donovan matter?

Answer: Yes, but none have been found which refer to the Donovan matter except to a reference to "testimony" on January 27, 1981.

8. Question: Identify the FBI agent or agents who obtained the information contained in the internal FBI memorandum dated February 12, 1981.

Answer: This information has not yet been located.

Very truly yours,

Robert A. McConnell

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

cc: Senator Edward M. Kennedy
Ranking Minority Member

memorandum?"

The answer was: "The FBI has been unable to reconstruct the source of the information articulated by Director Webster in the December 25th, 1982 memorandum. However, there is no record beyond the Director's December 15th, 1980 memorandum, of which the FBI is aware, reflecting such a check of the HOFEX records in December of 1980. The HOFEX records have been recently checked twice for references to Donovan and Schiavone, and no such references have been found."

Now, as I understand it, the Webster memorandum of December 15th, 1980 refers to HOFEX, and what we ask you to do is determine whether the file referred to Schiavone or Donovan, and I need to know what efforts did you make to determine whether the file referred to either Schiavone or Donovan, in order to answer this question. Did you just check Schiavone, or did you check both of them?

MR. OLSON: Doesn't the letter say both? We do not have a copy of that in front of us.

SENATOR HATCH: My question was, "Did the HOFEX files reveal the name SCC or Donovan?"

The answer is: "No, not to the knowledge of the FBI."

I just need to know who made the checks and where were they made. Were they made of OCIS, ISIS and ELSUR?

How were their efforts made?

THE WITNESS: We will get that for you in writing, if we may, Senator. The NOFEX file is maintained on ICIS, and to the best of my knowledge, that would have involved an ICIS check.

BY SENATOR HATCH:

Q So you did not check OSIS or ELSUR -- that is, O-C-I-S or E-L-S-U-R? Do you know if they checked those?

A I do not know. We will get that for you in writing.

Q How was the request made, do you know?

A In what manner was the request made?

Q Yes, or who made it? Who made the request, and how was it made?

A I will have to get that for you. I do not know.

Q Okay. What spelling did you use? Did you use S-c-h-i-v-o-n-e, or did you use C-h-i-v-o-n-e, or what?

A I'll have to check that. It's my understanding that both spellings were checked, yes.

Q I hope you will double-check on that, because the Director's memo misspells Schiavone, and I think you ought to use his --

A We will check on it, but I'm quite sure that that is what --

Q Were these checks made through all field offices, as well -- in other words, through all sources that the FBI has access to?

A I'll have to determine the nature and degree of the check.

Q To your knowledge, has the HOFEX file been purged at any time in the last four or five years, up until today?

A Not to my knowledge.

Q Not to your knowledge. Could you find out whether it has been purged?

A We'll ask that question, also. Normally, Senator Hatch, a file is not purged, and there are guidelines and rules determining when files can be purged or information removed. But it is normally not done until a case is concluded, an investigation completed.

SENATOR HATCH: Okay. Let me turn now to page 291 of the -- and if the Reporter could put this discussion with regard to that memorandum --

THE WITNESS: Excuse me, momentarily, Senator Hatch. May I be excused just one moment?

SENATOR HATCH: Yes.

If the Court Reporter will put that discussion pertaining to that letter from Mr. McConnell at the beginning of today's -- no, we can't, because we put that in as Exhibit 27 -- oh, I did put it in at the beginning.

MR. OLSON: I think you did incorporate it on the record.

SENATOR HATCH: Okay. Just leave it where it is. That is okay.

BY SENATOR HATCH:

Q Now, on page 291 of the hearing transcript, starting at the top:

"Senator Kennedy: And that some of Mr. Picardo's allegations have not been corroborated, while others may or may not be true?" That is in the form of a question.

Your answer was: "I would say that none of them have been corroborated. You used the term, 'none'."

Now, do you remember the question, and do you remember stating that?

A I don't remember stating it, but I can see it is very accurate.

Q Yes, okay. Now, my question is, why were the interviews with Cosmo and Anthony Balio, B-a-l-i-o, on January 20th, 1981, which tended to corroborate part of Picardo's story, not included in the report? Now, where we got that is from the Special Prosecutor's report at pages 408 to 410, and we will make that Exhibit 28. Do you know?

A I am not familiar with those interviews.

(Exhibit Number 28 was marked for identification.)

BY SENATOR HATCH:

EXHIBIT NO. 28

Y 8/19/ Muller

Picardo,[349] testified before the grand jury on May 6, 1982. [GRAND JURY MATERIAL DELETED.]

vii. Thomas J. Whelan

On May 15, 1982, former Jersey City, New Jersey, Mayor Thomas J. Whelan advised the Special Prosecutor, by telephone, that he never met or had any dealings with Secretary Donovan. [GRAND JURY MATERIAL DELETED.]

viii. John V. Kenny

The other Jersey City, New Jersey, mayor identified by Ralph Picardo, John V. Kenny, died on June 2, 1975.[350]

ix. Cosmo Balio

A. Statement to the FBI

On January 20, 1981, agents of the FBI interviewed Cosmo Balio in conjunction with the pre-confirmation investigation of Mr. Donovan. According to the teletype report of interview,[351] Balio

> advised he was the former owner of B & R Transport headquartered in Frankfort, New York, and having a terminal at 1810 Tonnelle Avenue, [North Bergen,] New Jersey. Balio advised B & R operated at North Bergen, New Jersey, from approximately 1960 through 1972, with the exception of approximately three months in early 1969 when it was closed down because of Federal liens against the firm.

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[349] Picardo so informed the Special Prosecutor on March 9, 1982.

[350] New York Times, June 3, 1975, at 37, col. 1.

[351] S.P. nos. 101523-101528.

> Ralph Piccardo [sic] was affiliated with B & R Trucking Company between 1966 and 1968 as a salesman. During this period of time, Piccardo was attempting to buy out and take over B & R Trucking company with an individual by the name of Steve Robichek (phonetic). Their dealings in this matter were with Cosmo Balio's father, Anthony Balio. Anthony Balio, during 1967-1968, let Piccardo and Robichek (phonetic) have operating authority of B & R Trucking Company while Anthony Balio received approximately $3,000.00 a week from Piccardo.
>
> Cosmo Balio indicated during this period of time, he, Cosmo Balio, worked off and on for B & R Trucking and another outfit called Beane Trucking.
>
> During this period of time also, Mike Gretchin was a driver for Piccardo and also acted as terminal manager for B & R Trucking. Gretchin was close to Piccardo and would be in the best position of anyone at B & R Trucking to verify or dispute any allegations that may exist of "special arrangements" between Piccardo and Raymond J. Donovan or Schavoney [*sic*] construction.
>
> Balio was aware of Schavoney Construction and stated B & R did haul six or seven loads for Schavoney Construction. He stated B & R hauled for Schavoney Construction because of Piccardo's influence with the company. He advised that these hauls were in an area called the free zone. He recalled hauling some machinery for Schavoney but had no recollection of hauling any material for the Long Island Expressway. Balio was also unaware of any illegal acts perpetrated on the part of Piccardo to get business from Schavoney Construction or to promise labor peace.

S.P. nos. 101526-101527.

B. Statement to the Special Prosecutor

Cosmo Balio was interviewed by an agent of the Special Prosecutor on April 1, 1982. Among other things, he stated that he assumed ownership of B & R on about April 1, 1969, due to the illness of his father, Anthony Balio. Balio first became acquainted with Picardo in approximately 1966-1967 when Picardo was driving on a part-time basis for another trucking concern. In approximately 1967 or 1968, Picardo, Steven Hrobuchak and "Old Man Richards" of Richards Transport attempted to purchase B & R from Balio's father. Balio disclaimed any knowledge of the deal arranged between them and his father. He did not recall having told the FBI in 1981 that his father was paid approximately $3,000 a week by Picardo during the negotiations. However, Balio stated that if he had so informed the FBI then it must have been true.

Also in 1967, Picardo began working for B & R as a salesman. Balio recalled that Picardo brought business to B & R from, among others, SCC. Balio was unable to recall the name of Picardo's contact at SCC. He added, however, that, to the best of his recollection, he had never met or dealt with Raymond Donovan. Balio could not recall Picardo ever mentioning the name Ray or Raymond Donovan.

B & R had no dealings with anyone at Teamsters Local 560.

C. Grand Jury Testimony

Cosmo Balio testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

x. Anthony Balio

A. Statement to the FBI

On January 20, 1981, Anthony Balio (the "younger Anthony" or "younger Balio") was interviewed by the FBI in connection with the pre-confirmation investigation of Mr. Donovan. According to the teletype report of interview[352] Anthony Balio

> advised he currently owns B & R Trucking Company, Frankfort, New York. He stated that his grandfather, Anthony Balio, and his father, Cosmo Balio, owned and operated B & R Trucking . . . during the 1960's. He advised that he also worked at the terminal, was eighteen years old at the time, and could not provide any information concerning Raymond J. Donovan or Schiavoney [sic] Construction Company. He stated that his grandfather, Anthony Balio, is deceased and his father, Cosmo Balio is currently retired. . . .

S.P. no. 101525.

B. Statement to the Special Prosecutor

Anthony Balio was interviewed by an agent of the Special Prosecutor on April 1, 1982. Among other things, he stated that B & R was originally owned by his grandfather, Anthony Balio, who in 1966 maintained a trucking terminal located at 1810 Tonnelle Avenue, Jersey City, New Jersey. At that time, Cosmo Balio, the younger Anthony's father, assisted the elder Balio in the operation of the company.

In approximately 1968-1969, the younger Anthony was working for his grandfather as a driver, making three to four runs a week from B & R's main terminal in upstate New York to the Jersey City location. During those years, he met Ralph Picardo, who with Steven Hrobuchak was at that time attempting to acquire control over B & R. The younger Anthony was at that time extremely upset with the way he perceived Picardo to be exerting pressure on his grandfather and his father. Confronting Picardo, he was told that Picardo was a person to be reckoned with, that Picardo had big people behind him.

---

[352] Id.

The Picardo group did assume operational control of B & R, even though the younger Balio believed that his family still owned the business. Further, he was unaware of any contract that B & R might have had with SCC. However, he did recall Picardo receiving work from a "Donovan." Balio believed that this work entailed a "pier move" and B & R furnished trucks and drivers to Donovan. However, the younger Balio never saw any billings for those services.

Anthony Balio had no direct knowledge of Picardo's association with Teamsters Local 560, although he had heard that Picardo had influence with that union. He also stated that, while he had no firsthand knowledge that Picardo received kickbacks for "labor peace," but he stated that Picardo gathered large amounts of cash on Fridays.

C. Grand Jury Testimony

Anthony Balio testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

Q Why was the information obtained from the source of the New York Office on January 22nd, 1981 concerning alleged connections between Mr. Donovan and Jack McCarthy and others not included in the report? Do you have any knowledge of that?

A I do not.

SENATOR HATCH: That is found in the FBI memo of April 15th, 1982, which we will mark as Exhibit Number 29.

(Exhibit Number 29 was marked for identification.)

MR. OLSON: May we request, Mr. Chairman, that at the close of the proceedings today, and when we do get a copy of the transcript of the third session, that we then get a copy of the exhibits compiled today, because --

SENATOR HATCH: All the exhibits today. I think that is right. Let us make sure you get the copies of every exhibit at the end of each day, because you have got to have them.

MR. OLSON: Thank you.

SENATOR HATCH: Okay. I am glad you made that point.

BY SENATOR HATCH:

Q On page 284, there is this exchange, right down a little bit below the middle of the page, where I ask the question, "As to Number 6" -- in fact, go down further. It would be the next-to-the-last question I ask on that page.

UNITED STATES GOVERNMENT

Memorandum

TO : SAC [redacted]

DATE: #279 JDA 8/17/82 Mullen

FROM : SA GEORGE D. DYER (M-7)

SUBJECT: [redacted]

EXHIBIT NO. 29

Dates of Contact 1/11/81

File #s on which contacted (Use Titles if File #s not available)

161-7053 (SPECIAL INQUIRY; RAY DONOVAN)

Purpose and results of contact

☐ NEGATIVE
☒ POSTIVE
☐ STATISTIC

"SEE ATTACHED INSERT".

INFORMATION HEREIN OBTAINED CONFIDENTIALLY; INFORMANT'S IDENTITY IS NOT TO BE DISCLOSED UNLESS IT HAS BEEN DEFINITELY DECIDED THAT THIS PERSON WILL TESTIFY.

THIS FD-209 SERVES AS A CHANNELIZATION COVER SHEET ONLY. IT IS NOT TO BE FILED IN ANY SUBSTANTIVE CASE FILE AND IS NOT TO BE INCLUDED IN ANY REPORT. REMOVE PRIOR TO FILING ATTACHED INSERT.

161-7053-18

PERSONAL DATA

(1)- 161-7053

GDD:cal
(2)

M-13

On January 11, 1981, [redacted] provided the following information to SA GEORGE D. DYER:

Source stated that he met with RAY DONOVAN in the 60's with JACK MC CARTHY; source advised, however, that he was never involved in any illegal activities with them. Source has heard that DONOVAN of Schiavone Construction Company, Secaucus, New Jersey, was involved in road building contracts, possibly the New Jersey Turnpike, in which there were calls between JACK MC CARTHY and TIM MURPHY.

Source advised that DONOVAN brought Cero (phonetic) Wire and Cable Company to MC CARTHY and MC CARTHY thereafter represented the company.

Source advised that Schiavone had been associated with LOU and CHARLIE MARCHANTE (ph), and CORNELIUS GALLAGHER, who source stated had been on Schiavone's payroll.

Source advised that (FNU) DEANGELIS, who was involved in the New Jersey Soy Bean scandal, GALLAGHER, RAY DONOVAN, and TIMMY MURPHY (true name JOE PECORA) were all in some way connected with JOHN RIGGI.

Source advised that JACK MC CARTHY was retained at one time by Schiavone, and if MC CARTHY took payoffs he would do it through a vehicle similar to taking out newspaper ads and receiving a large sum of money for them.

Source advised that JOHN ALBERT, who is involved in toxic waste cleanup and associated with JOE BECK LAPI (deceased) would have information on DONOVAN. Source described ALBERT as a promoter who claimed he controlled the Mayor of New Brunswick, New Jersey.

ADMINISTRATIVE

JOHN RIGGI is identified as the acting boss of the DE CAVALCANTE Family of Organized Crime.

166B-1055

SU

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April 7, 1982

RAYMOND J. DONOVAN

During January, 1981, the FBI conducted a background investigation of Raymond J. Donovan who at the time was being considered for appointment as Secretary of Labor. Summaries of the investigation were furnished through the Assistant Attorney General's Office of Legislative Affairs, Department of Justice, to the U.S. Senate Committee on Labor and Human Resources, as well as to the Office of the President Elect.

Subsequent to Secretary Donovan's appointment, Special Prosecutor Leon Silverman was designated to conduct an investigation of Donovan, in accordance with provisions of the Ethics in Government Act. During Mr. Silverman's investigation, it was determined that certain information was contained in the files of the FBI's Newark field office which did not appear to have been furnished to the Senate Committee on Labor and Human Resources, or the Special Prosecutor. The information and an explanation of the circumstances which contributed to the failure to disseminate are addressed in a March 18, 1982, report which has been furnished to the Special Prosecutor. The Special Prosecutor has by letter dated March 29, 1982, authorized, in accordance with 28 USC 597, the release of the information from the Newark field office to the U.S. Senate Committee on Human Resources.

Special Prosecutor Leon Silverman, Director William H. Webster, and members of their respective staffs met on March 19, 1982, and discussed the measures used in the Newark field office to retrieve this previously unreported information about Secretary Donovan. By the close of business March 19, 1982, all field offices were notified of additional steps to be taken.

All fifty-nine field offices have now responded and furnished photocopies of original documents mentioning either Raymond J. Donovan or Schiavone Construction Company, not previously made known to FBI Headquarters during the Donovan background investigation. A copy of each teletype received from all field offices was furnished to the Special Prosecutor on March 24, 1982. A detailed review of the teletypes received and documents requested has located five incidents which do not appear to have been disseminated previously.

The information provided by the sources mentioned in this document is extremely singular in nature, dissemination should be limited and must be protected.

A summarization of the information located follows with photocopies of all original documents attached:

Chicago Division

On 2/6/81, a Cleveland Division informant was contacted and his knowledge of a matter under investigation in the Chicago Division was solicited. The informant provided his knowledge of the topic of interest to the FBI and in doing so mentioned a Don Rodgers. He described Rodgers as a former White House Staffer during the Nixon Presidency and the person that recommended Raymond J. Donovan for the position of Secretary of Labor. All the information provided by the informant was recorded on plain white bond, as is the practice when the location of the informant is to be concealed, and sent to FBIHQ. The FBI Informant Unit Supervisor receiving the information sent it in its entirety to the Chicago Division by airtel. The FBIHQ Informant Unit Supervisor with responsibility for this matter has left the employment of the FBI and, therefore, is not available to furnish further information relating to this dissemination. It appears that the information about Donovan was not considered pertinent as there was no criminal allegation. No markings exist in the file that would indicate that either the Special Inquiry Unit or the Public Corruption Unit was cognizant of this information.

New York Division

During April, 1981, a Roy Anderson appeared at the New Rochelle Resident Agency to discuss observations he had made during the period he had been employed by an Italian company that was involved in a joint venture with Schiavone Construction. Mr. Anderson was referred to the U.S. Treasury Department in that the information involved questionable foreign currency transactions. By letter dated 4/25/81 Anderson transmitted, for information purposes, a copy of a letter dated 4/24/81, he sent to the Treasury Department. In the

April 24th letter, he mentioned converting some company funds ($10,000) into cash and his suspicions that the money was used as a labor peace purchase. The letters were forwarded to the New York squad addressing Labor Racketeering and a case opened. On 5/19/81, a Special Agent contacted Anderson and learned that Anderson had no direct knowledge or information to support his suspicions nor any idea to whom a bribe may have been paid. Neither Donovan nor Schiavone Construction were mentioned beyond an existing business relationship. At that point the agent, with Supervisor concurrence in behalf of the New York Office, closed the case and determined FBIHQ notification was not warranted.

New York Division

During the weekend of January 10, and 11, 1981, a number of Special Agents assigned to the New York office contacted informants in an effort to gain the information they might possess about Raymond J. Donovan. Over the next few workdays the information they gained was typed and sent to the Supervisor in charge of the Donovan background investigation. One of those informants contacted disclosed on January 11, 1981, that Donovan had business contacts with a number of individuals with questionable reputation and mentioned; Jack McCarthy, Tim Murphy aka Joe Pecora, Lou Marchante, Charlie Marchante, FNU De Angelis, and John Riggi. Some of these individuals are alleged to have close association with organized crime figures. He advised John Albert would have information about Donovan and that Cornelius Gallagher was on the Schiavone Company payroll. The Supervisor directed the communication to the file and today is unable to recall any dissemination of this information. The file fails to reflect any further action.

Philadelphia Division

On 9/22/78, an informant learned that a Pennsylvania Highway official had received $3,000.00 in lumber for personal use from a Schiavone Construction Company employee. The company was at the time constructing a portion of an interstate highway in Pennsylvania. State investigation resulted in the identification of all parties involved and discharge of the state employee. The FBI opened an investigative file, interviewed several individuals, and presented the allegation for a preliminary prosecutive opinion. The AUSA involved declined prosecution and the case was then closed. Bureau reporting regulations, in effect at the time, were observed, and FBIHQ was notified. No involvement of Raymond Donovan nor any corporate officer was discovered.

Seattle Division

On 1/28/81, Joanne Dixon, a complainant from the Northern California area, telephonically contacted the Vancouver Resident Agency and reported that the Raymond Donovan she observed on a television news broadcast appeared to be the individual that defrauded her in 1978 or 1979 in the installation of aluminum siding on her California residence. SA John T. Gordon prepared an FD 302 of the contact, and by priority teletype submitted the information to FBIHQ. The teletype was marked to the attention of "The Criminal Division, White-Collar Crimes Section, Public Corruption Unit, Room 3117, Ron Butler." The caption used was RAYMOND J. DONOVAN, SECRETARY OF LABOR DESIGNEE, INFORMATION CONCERNING, SPIN (B) OO: BUREAU." Assistant Section Chief Ronald Butler advises he was the Public Corruption Unit Chief on 1/29/81 but has no recollection of the Seattle teletype. Anthony Adamski, Chief, Special Inquiry Unit has advised that the Seattle teletype was received by his unit and is contained in the Donovan Special Inquiry file at FBIHQ. No action was taken by FBIHQ on this information because Donovan's background had been verified for the 1978 and 1979 period. Donovan was found to have been employed by Schiavone Construction Company and residing in Short Hills, New Jersey. The investigation did not develop any information that Donovan had been employed in any aspect of the aluminum siding business. The information was received at FBIHQ on 1/30/81, three days after FBI testimony before the Senate. Inasmuch the information was not considered identical with Donovan and therefore not pertinent it does not appear to have been disseminated.

Attached are copies of various communications which serves as the basis for the above summarizations.

"Allegation Number 6 is that an unnamed source reported that Picardo and two other individuals made pickups from Mr. Donovan for Salvatore Briguglio. Would you tell us what your investigation revealed?"

And you say: "I believe you mentioned that earlier. We located the source of the allegation, and he denied the allegations."

Now, did that source offer to take a polygraph test?

A I do not know.

Q You do not know whether he was given a polygraph test?

A I do not.

Q Okay. Now, right out of the January 23rd, 1981 report -- the reason I refer to that is it starts off, "Fred Furino --".

MR. OLSON: What page?

SENATOR HATCH: That is page 15, I am sorry.

BY SENATOR HATCH:

Q "Fred Furino was interviewed on January 22nd, 1981. He advised that he was former Vice President of the International Brotherhood of Teamsters, Local 85, Fort Lee, New Jersey, from 1963 to 1965. Furino stated that he considered himself one of Sal Briguglio's closest friends. He stated he does not know Raymond Donovan and is unaware of Briguglio, Picardo or Al Cohen, receiving payments from Mr. Donovan or SCC. He advised he would be willing to submit to a polygraph in this matter."

You do not know whether he was given a polygraph or not, do you?

A At what time frame are we talking about?

Q At that time.

A I do not know.

Q Okay. Now, as I understand it, the Special Prosecutor did give Furino a polygraph test -- are you aware of that -- and that he actually failed the test. That is found in Special Prosecutor's Report, page 424, and we will make that Exhibit 30. Are you aware of that, that he actually was found --

A Senator, I read something in the newspaper about it, but that's the extent of my knowledge.

(Exhibit Number 30 was marked for identification.)

BY SENATOR HATCH:

Q Well, the Special Prosecutor found that deception was indicated, meaning that he flunked the test. I might add, according to the Special Prosecutor, as I recall, he flunked the test six times. Are you aware of that?

A I am not aware of that.

Q Okay. On page 306 of the hearing record, there is

- 2 -

EXHIBIT NO. 30

[redacted]

Fred Furino was interviewed on January 22, 1981. He advised that he was a former Vice President of the International Brotherhood of Teamsters, Local 84, Fort Lee, New Jersey, from 1963 - 1965. Furino stated that he considered himself one of Sal Briguglio's closest friends. He stated he does not know Raymond Donovan and is unaware of Briguglio, Picardo or Al Cohen receiving payments from Mr. Donovan or SCC. He advised he would be willing to submit to a polygraph in this matter.

In March, 1978, pursuant to a search warrant, the residence and office of Sal Briguglio were searched. A review of five of Briguglio's address books at that time located no reference to Ray Donovan, Ronald Schiavone or SCC.

Ronald Schiavone, President of SCC, during interview, advised that SCC has about 100 nonunion employees on a full-time basis (for example, managerial personnel, office staff and field supervisors). Periodically owner/operators of dump trucks who are nonunion will also be employed. He stated that 99 per cent of SCC work is public work and, therefore, employees are

Ex 30
8/17/82
Mullen

Specifically questioned whether he had ever performed any errands, or picked up any money from anyone, for Salvatore Briguglio while the latter was in jail, Furino said he had not. He added that he had no contact with Salvatore Briguglio while Briguglio was imprisoned. Furino also stated that he had not made any pickups for Briguglio at any time.

C. First Grand Jury Appearance

Frederick S. Furino testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

D. Polygraph Examination

On April 27, 1982, Frederick S. Furino volunteered to take a polygraph examination concerning his knowledge of and relating to Mr. Donovan. As set forth in the Polygraph Examination Report,[361] it was the opinion of the examiner

> that the responses recorded following each question dealing with Furino's having known Raymond Donovan personally are indicative of deception, and that Furino has not been truthful in describing his relationship with Raymond Donovan.

Exhibit 57, 5th page.[362]

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[361] A redacted version of which is set forth as Exhibit 57.

[362] Prior to the polygraph examination, the examiner had asked Furino "to comment on what he meant when he said he 'knew' someone. Furino then replied for him to 'know' someone, he would have had to meet them in person, have spoken with them, and have been aware of their name. . . . Furino [further said] that to him, if he ever knew someone, it could not be [a]ffected by the passage of time." Exhibit 57, 4th page.

a discussion about the fact that the FBI was unable to establish any connection between the Schiavone Company and Phillip Muscato. Bruce Lockland of the Bergen Record subsequently established there was such a connection by interviewing Moscato.

Now, let me ask you this. Why didn't the FBI interview Moscato? Do you have any reason to know, or do you know?

A I do not know whether we did or did not, and whatever action was taken, I do not know the reason.

Q Okay. Now, on page 304 of the hearing record, -- the references, Mr. Olson, that we were referring to are right in the middle of page 306, starting with, "Now, the records of the Newark Division of the FBI disclosed no reference to Moscato contractors or any connection between Moscato contractors and Mr. Donovan or Schiavone Construction Company?" That was asked by me.

"Mr. Mullen: That is correct."

I then asked: "The FBI reviewed active and inactive vendor cards at Schiavone Construction Company and found no card for Moscato.

"Mr. Mullen: We did not."

I then asked: "Mr. Schiavone states that he had never done business with a Moscato. Is that correct?

"Mr. Mullen: Yes."

Now, I refer you to page 304. Referring to Mr. Cecchi -- that is C-e-c-c-h-i -- right in the middle of page 304, the Chairman asks:

"He, meaning Mr. Cecchi, was with OK Trucking in the 1950s in part, OK Trucking for a year or a year and a half, and that he did not like him. In his opinion, Picardo was a liar."

Strike that, and let me go up above. It is "The Chairman" above that.

"He, meaning Mr. Cecchi, was with OK Trucking in the 1950s and part of the 1960s,but he remembered no work for Schiavone Construction Company during the 1960s. He had not heard of XYZ Leasing or of Faugno" -- that is F-a-u-g-n-o -- "Is that correct?"

Your answer was: "Correct."

Now, as I understand it, Cecchi, later admitted to a reporter that he knew Faugno, Briguglio, and others described in these matters, in some detail. You are aware of that?

A I am aware of that.

Q Why didn't the FBI obtain that information?

A Mr. Cecchi was not forthright with the FBI when interviewed.

SENATOR HATCH: Why don't we end the testimony at this point? I had hoped, for your benefit, Mr. Mullen, that I could get through this today, and we have really gotten a long way --

THE WITNESS: I am prepared to continue, Senator.

SENATOR HATCH: I know you are. My problem is that we are going to have nine votes back-to-back. It would have been ten, but Senator Tower, at my request, is going to withdraw one of the amendments. And I know that that vote is going to start any second now.

Now, I think that with a little bit of luck, we could finish in a relatively short time the next time we meet, so I would suggest you bring Mr. Adamski with you next time, and we will just start right off with him.

I apologize to you that I have not been able to put more time back-to-back, but I just do not have it; that is why we are working at 7:30 in the morning.

MR.OLSON: Are we resuming tomorrow at 7:30?

SENATOR HATCH: I don't know. I presume we will resume tomorrow. Hopefully, we will be through with you in about a half-hour tomorrow, I hope no more than an hour, and we will go right to Mr. Adamski.

MR. OLSON: We will bring Mr. Adamski with us.

SENATOR HATCH: Okay. Well, you will have Mr. McConnell contact either Mr. Flannery or Mr. Parry and set up a time to come up and personally show me the --

MR. OLSON: Well, why don't we go off the record? Mr. McConnell is here now, and he can discuss that with you right now.

(Discussion off the record.)

SENATOR HATCH: We will end the testimony for today. We will try and finish it tomorrow -- and I believe we will -- and have Mr. Adamski here, and we will try and find additional days where we will have more time to spend.

(Conferring with staff.) Senator Denton has a question for the Chairman, and we will respond to his question in writing for the record.

(Whereupon, at 10:05 a.m., the sworn record was concluded.)

CERTIFICATE OF REPORTER

I, Tony Jackubosky, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Tony Jackubosky

Tony Jackubosky, Reporter

CERTIFICATE OF REPORTER

I, Anne E. Hayes, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Anne E. Hayes

Anne E. Hayes, Reporter

United States Senate

Committee on Labor and Human
Resources

Washington, D.C.

Wednesday, August 18, 1982,
7:36 a.m.

Room 5302, Dirksen Senate Office
Building

RESUMED SWORN RECORD OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

SWORN RECORD OF ANTHONY ADAMSKI, JR., UNIT CHIEF, FINANCIAL CRIMES UNIT, FBI

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
John A. Mintz, General Counsel, FBI
J. Kevin O'Brien, Office of Congressional Affairs, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Walter Sheridan, designated staff member of Senator Kennedy
Tim Smith, designated staff member of Senator Stafford
Harold Gordon, designated staff member of Senator East
Bob Marshall, designated staff member of Senator Denton
Joel Lisker, designated staff member of Senator Denton
Tom Parry, designated staff member of Senator Hatch
Bruce Navarro, designated staff member of Senator Nickles
Diann Howland, designated staff member of Senator Quayle
Emily Donovan, designated staff member of Senator Humphrey

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff
Deborah Dahl, Committee Staff

SENATOR HATCH: Let's go on the record and identify everybody who is here.

MR. MCCONNELL: Bob McConnell, Assistant Attorney General, Office of Legislative Affairs

MS. HOWLAND: Diann Howland, from Senator Quayle.

MS. DONOVAN: Emily Donovan, Senator Humphrey.

MR. GORDON: Harold Gordon, with Senator East.

MR. LISKER: Joel Lisker, Senator Denton.

MR. NAVARRO: Bruce Navarro, from Senator Nickles.

MR. PARRY: Tom Parry, with Senator Hatch.

MS. EGBERT: Carol Egbert, Committee Staff.

MS. DAHL: Deborah Dahl, Committee Staff.

MS. MULKEY: Barbara Mulkey, Committee Staff.

MR. SHERIDAN: Walter Sheridan, from Senator Kennedy.

MR. FLANNERY: John Flannery, Senator Hatch.

MR. OLSON: Theodore Olson, Department of Justice.

THEREUPON,

FRANCIS M. MULLEN, JR.

was called as a witness and, having been previously duly sworn by Senator Hatch, was examined and testified further as follows:

BY SENATOR HATCH:

Q Mr. Mullen, yesterday, items that we hoped you would have with you today, you were to check further on the HOFEX--whether or not there were other indications of Schiavone,

Donovan--

(Mr. John A. Mintz and Mr. J. Kevin O'Brien enter the room.)

MR. OLSON: It is my understanding, Senator Hatch, that all spellings of Schiavone, or the two spellings, the correct spelling of Schiavone and the spelling that was in Director Webster's memorandum of December 15, 1980, had been checked and were checked on two occasions in the HOPEX index or the HOPEX files; and no reference was found to that company, and the same with respect to Mr. Donovan. We received the transcript relatively late in the day yesterday, and we have not had an opportunity to go through the transcript to cover the items that were referred to yesterday morning that came in to my office around six.

SENATOR HATCH: You didn't check ISIS or--

MR. OLSON: There hasn't been an opportunity to check anything further after yesterday.

SENATOR HATCH: You will do that for us?

MR. OLSON: Yes.

SENATOR HATCH: Were you able to check on the agents who received information from the informants on January 8th, 1981? You were going to give us the names of those.

MR. OLSON: We haven't had a chance to check anything that was referred to and covered in the hearing yesterday morning.

SENATOR HATCH: There were many things we need to have you check: the frequency of the Schiavone Construction Company references on the tapes, on page 185; the same for Magrini. We would like all other Schiavone Construction Company tapes, the top officials; that is found on page 186; references to Ray on the tapes. We would like the frequency and efforts to determine whether they were Donovan, references to Donovan--that is found on page 205--and whether there are internal memos re the decision not to mention the Masselli tapes; and that is found on page 215.

So, if you can provide those for us, we would appreciate it.

Incidentally, you testified that you spoke to the case agent in the Masselli investigation--that is on page 69--and later identified him at page 104 as Mr. Moody.

BY SENATOR HATCH:

Q Is that correct?

A That is correct.

Q Wasn't Moody, in fact, supervisor for the case and not the case agent in the Masselli case?

A Senator, I am not sure. He was stationed in New York at the time. He may well have been the supervisor but had a heavy involvement in the case.

Q You don't know anybody else who would have been the case agent than himself?

A I do not.

Q What position does Moody now hold with the FBI?

A He is a supervisor at FBI headquarters in the organized crime section.

Q Who held that position in charge of the FBI's labor section in December, 1980?

A We do not have a labor section. We may have a unit within the organized crime section responsible for handling labor-type cases. I would have to obtain the identity of the agent who held the position at that time.

Q When is the last time you had any conversation with Mr. Adamski?

A Last night in Mr. Olson's office.

Q Was that about the applicant investigation of Mr. Donovan or about this investigation?

A Briefly, it was about this investigation, about a ten-minute meeting.

Q You testified at pages 126 and 127 during your last appearance before us that you would check to see why you signed a January 14, 1981 letter to this Committee instead of Director Webster. Have you found out the reason you signed that letter?

A I may have misunderstood. I didn't know I was to check. I thought I had answered the question at the time by saying he was, most likely, out of town and not available; and

I would have acted in the capacity of acting director.

The only thing I could do is check with the director's secretary to see if he was, in fact, out of town on that day or available at FBI headquarters. I could take that additional step.

Q Okay. On your last appearance you testified at pages 147 and 148 that you would check to see what documents you had that backed up the report of January 23rd, 1981. Have you done that, and what did you find, if you have?

MR. OLSON: Senator, both with respect to that question and with respect to the previous question, I can't recall a specific question or specific statement by the witness saying that something further would be provided to you. In order to avoid that kind of problem, because we want to respond to your expectations, I would suggest that at the close of each session, if there are things, members of your staff could prepare a list of either specific questions or specific things that we should do, then there will not be any misunderstanding about what we are providing to you. I just simply want to make sure that we are fully responsive.

SENATOR HATCH: I think that will help. We wi[illegible] be glad to do that.

THE WITNESS: Excuse me, Senator.

(Off the record)

BY SENATOR HATCH:

Q You also testified at pages 106 and 107 that you would check your daily logs for December, 1980 through February of 1981 to identify any meetings relating to the Donovan matter. Have you been able to do that?

MR. OLSON: We did do that. That was answered in the letter that was provided to you by Mr. McConnell, I believe, yesterday.

SENATOR HATCH: All right.

Mr. Mullen, you are still under oath, as you know.

THE WITNESS: I understand.

BY SENATOR HATCH:

Q We have referred a number of times to the New York investigation involving Jopel and Masselli. Were any records or documents relating to that investigation, including any tapes, pictures, reports, memoranda, or correspondence, destroyed since your appearance before this Committee on January 27th, 1981? Do you know?

A I know of no documents that were destroyed.

Q An FBI letterhead memo which is dated May 14th, 1982, which was provided to the Committee, deals with an inquiry by the Office of Professional Responsibility into the delay by the FBI in furnishing two Newark office memos dated February 1, 1981. The first memo concerned additional information provided telephonically by the same informant on February 1, 1981. Both memos dealt with the alleged association between

Mr. Donovan and Mr. Briguglio. Do you know who conducted this investigation?

A I know the identity of the responsible FBI official, but I do not know who specifically conducted this investigation.

Q Was it man named Dolan or Nolan, something like that?

A I just don't know who conducted the inquiry.

Q Could you provide that for us?

A Yes, we can.

Q What is the name you are familiar with? Did you say--

A Assistant Director Jim Greenleaf has overall responsibility.

Q He is the only one you know about on that?

A That's right.

Q Were you interviewed in connection with this investigation?

A I was--with this particular investigation you refer to here?

Q Right.

A I was asked to furnish an affidavit, Senator Hatch. I do not know at this time whether it was in connection with this particular matter, but it was in relation to the overall investigation of Raymond Donovan.

Q Okay, now, if you supplied an affidavit in relationship to this investigation, could you supply that to us?

(Off the record)

MR. OLSON: We will have to give you an answer, Senator, with respect to whether or not we can after we have had an opportunity to consult with the--it's an internal Office of Professional Responsibility--

SENATOR HATCH: This question is not meant to be offensive, but it is just to cover the basis.

BY SENATOR HATCH:

Q Were you asked to submit to a polygraph examination on this?

A I was not.

Q Did you ever submit to a polygraph in anything involving these matters?

MR. OLSON: Secretary Donovan?

SENATOR HATCH: Yes.

THE WITNESS: I understand the question as pertaining to those matters on Secretary Donovan--

SENATOR HATCH: Yes, to the Donovan inquiry, the Committee, and anything related to it.

THE WITNESS: I have not.

BY SENATOR HATCH:

Q According to the OPR inquiry, there were apparently differing recollections by the agent who received the information and Mr. Adamski relative to the information received on January 27th, 1981. Did Mr. Adamski discuss this with you on or about January 27th, 1981?

(Off the record)

THE WITNESS: Senator Hatch, I want to be sure. You are referring to the matter in here where information--

MR. OLSON: "Here" means--

THE WITNESS: --the May 14th document--

SENATOR HATCH: Let's mark this May 14th, 1982 document as Exhibit 31.

(Exhibit No. 31 was marked for identification.)

THE WITNESS: Then I will have to take a look at it.

SENATOR HATCH: Okay.

MR. OLSON: We have not yet received, Senator, the exhibits that have been marked heretofore in this proceeding.

SENATOR HATCH: They are still copying. We expect to give them all to you today. So, we will sure try and do that for you.

MR. OLSON: Thank you.

THE WITNESS: I am prepared to answer, Senator.

I do not recall any discussion on January 27th regarding this memorandum or the material.

BY SENATOR HATCH:

Q Where did you first hear about it?

A I see in the memorandum the document furnished to me as Exhibit 31 that a meeting was held on January 28th or 29th,

U.S. Department of Justice

deral Bureau of Investigation

Office of the Director

Washington, D.C. 20535

EXHIBIT NO. 31

Ex 31
5/18/82

May 14, 1982

RAYMOND J. DONOVAN

In a letter to the Director dated April 23, 1982, from Senators Orrin G. Hatch and Edward M. Kennedy, Chairman and Ranking Minority Member respectively, Senate Committee on Labor and Human Resources, four items of information were requested in furtherance of the Committee's inquiry into allegations against Secretary Raymond J. Donovan. The first item requests "[a] detailed report concerning the reasons for failing to previously furnish to the Committee the two Newark Office memoranda dated February 2, 1981; the New York Office informant contact on January 11, 1981; and the information furnished to the Chicago Division by the Bureau [on] February 24, 1981." The Committee added that the report should include the results of the FBI's Office of Professional Responsibility (OPR) inquiry of March 17-18, 1982, as well as any subsequent inquiries.

The FBI's delay in furnishing the Committee with the two Newark Office memoranda dated February 2, 1981, was addressed by the OPR inquiry of March 17-18, 1982. A summary of that inquiry is provided within this letterhead memorandum. OPR is currently conducting separate inquiries into the handling of the New York Office informant contact on January 11, 1981, and the information furnished to the Chicago Division by FBI Headquarters (FBIHQ) on February 24, 1981. Summaries of these inquiries will be provided to the Committee upon their completion.

The Newark Special Agent who prepared the two Newark Office memoranda was at FBIHQ from January 26-29, 1981, to provide security for a witness testifying in the Donovan confirmation hearings. This Agent stated he spoke on the telephone with an informant on January 27, 1981. That same day, he typed the information resulting from that conversation on a piece of plain bond paper and recalls that he either gave the paper to the Chief of the Special Inquiry Unit (Unit Chief) to read or read it to him. He remembers that he did not leave a copy of these typewritten notes with the Unit Chief. According to those notes, the informant alleged that Secretary Donovan socialized regularly with Salvatore Briguglio and his associates at various nightclubs in the Union City, New Jersey, area; that Donovan paid Briguglio for furnishing bid information of competitors in construction contracts; and that Schiavone Construction Company furnished Anthony Provenzano with building materials for the renovation of his residence without charge.

The Unit Chief's recollection differs in part from that of the Agent. He remembers that the Agent on an unrecalled date advised him by telephone of informant information concerning the provision of construction materials to Provenzano, but maintains that he was not advised of any other information the informant had furnished. He recalls that a staff aide for the Senate Committee also informed him of the allegation involving Provenzano.

The Newark Agent said that, after his return to the Newark Office, he had another telephone conversation with the same informant on February 1, 1981. He remembers recording this and the January 27, 1981, contact in separate memoranda on February 2, 1981, and furnishing both memoranda the same day to the Newark Supervisor in charge of the Donovan background investigation. The Newark Supervisor confirmed that the two memoranda of February 2, 1981, were delivered to him that day.

The Supervisor stated that he noted that the memorandum describing the Agent's conversation of January 27, 1981, contained an addendum advising that the information had been furnished to the Unit Chief on the same day it was received. He said that he did not confirm the matter in writing with FBIHQ because he believed that FBIHQ had already received this information and that the allegations were similar to ones that had already been investigated and determined to be unfounded. A review of the FBIHQ Donovan background investigation file failed to disclose any written communication from Newark to FBIHQ concerning the information provided by the informant on January 27, 1981.

The Assistant Director of the Criminal Investigative Division (CID) recalls that, at a meeting held on January 28 or 29, 1981, attended by him, the Executive Assistant Director (EAD) for Investigations, the Chief of the Civil Rights and Special Inquiry Section (Section Chief), the Assistant Section Chief, and the Unit Chief, the informant's allegation concerning Provenzano was discussed. Since the Donovan hearings were over and the Committee staff was already aware of the information, it was determined that it was not necessary to formally advise the Committee of the allegation.

With regard to the informant information received on February 1, 1981, the memorandum of the Newark Agent reported that Secretary Donovan and Briguglio took various pleasure trips together during the late 1960's and the early 1970's; that Briguglio's girlfriend had met Donovan while in the company of Briguglio; and that Briguglio was in the company of Donovan on numerous other occasions. That memorandum also listed the names of five other individuals who the informant advised could corroborate a relationship between Donovan and Briguglio. The Newark Supervisor stated that he telephoned the Section Chief on February 2, 1981, and advised him of the contents of the memorandum. The Supervisor recalls advising the Section Chief that the Agent had been furnished with five names, but does not recall providing him the names received from the informant. The Section Chief recalls discussing the information concerning Briguglio's girlfriend, Joan Torino, with the Supervisor on the telephone and instructing him to interview her. He recalls discussing with the Supervisor individuals who the informant said might know something about a Briguglio-Donovan relationship, but has no recollection of any specific information being furnished to him concerning the names or descriptions of individuals who could provide that information.

The Supervisor states that he provided FBIHQ with the results of the Torino interview by teletype on February 3, 1981, and referenced his telephone calls to FBIHQ of February 2, 1981. A review of the FBIHQ Donovan background investigation file disclosed a Newark teletype dated February 3, 1981, which reports the informant's information regarding Briguglio and Torino and the results of her interview, but does not mention the five individuals referred to by the informant. The Supervisor said that he did not conduct a follow-up investigation or include those names in the teletype because they were just another example of the numerous name references that had been checked out and had failed to establish any relationship between Donovan and organized crime figures.

The Section Chief said that he did not request the Newark Office to conduct additional investigation about those individuals because of the vagueness of the information and the lack of any specific details. He believed this decision was in accord with instructions he said were previously received from the EAD for Investigations and the Assistant Director of CID not to pursue vague, non-specific allegations and to conclude the background investigation. He also said he saw no reason to report the informant's information concerning Torino to the Senate Committee or discuss it with his superiors because he believed the subsequent interview indicated that the information was unsubstantiated.

As the Committee was previously advised, the two Newark memoranda were discovered by an FBI Special Agent detailed to the Special Prosecutor while reviewing an informant file in the Newark Office. This information was communicated to the Director by the Special Prosecutor in a personal meeting. Promptly thereafter, a thorough search of all field office indices was ordered by the Director and, with the approval of the Special Prosecutor, the results of that search, including the information discussed herein, were furnished to the Committee. While it is unfortunate that this information was not provided earlier, we have found nothing to indicate that it was deliberately concealed from the Committee.

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

May 14, 1982

Honorable Orrin G. Hatch
Chairman, Committee on Labor
and Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter of April 23, 1982, requesting additional information regarding the FBI's background investigation of Secretary Raymond J. Donovan.

Your letter requests four items of information. The first relates to the FBI's internal handling of certain memoranda and information that were not previously furnished to your Committee. The report you requested is contained in the attached letterhead memorandum. Additional information will be furnished upon completion of inquiries presently being conducted by the FBI's Office of Professional Responsibility.

Item two requests a "copy of the February [3], 1981, teletype and the memorandum of an apparent interview of Joan Torino." As you know, those documents may be relevant to the investigation of Secretary Donovan presently being conducted by Special Prosecutor Leon Silverman under the Ethics in Government Act. For that reason, we believe that it would be inappropriate for us to release these materials to your Committee without first obtaining Mr. Silverman's written authorization. A copy of the materials was forwarded today to the Special Prosecutor for review. If he authorizes the release of these documents, they will be promptly forwarded to your Committee.

The third item asks us to provide copies of interview memoranda of all informants referred to in the January 23, 1981, report furnished to the Committee. It has long been the policy of the FBI and the Department of Justice not to disclose information that would compromise the identity and jeopardize the safety of confidential informants. I have been advised that this information is of such a nature and therefore regret that we cannot comply with this request.

Honorable Orrin G. Hatch

Finally, item four asks for "details concerning the disposition of the matter referred to in the briefing we received from your representatives on December 11, 1981." This apparently refers to a question of whether Secretary Donovan was seen with a person he had denied knowing. I have been advised by Assistant Director Charles P. Monroe, who attended the briefing, that the discussion was of a very general nature because the Donovan matter was then under investigation by the Justice Department. Neither he nor Deputy Associate Attorney General Jeffrey Harris, who was also present, are able to identify the type of information you have requested. Perhaps someone on your staff can help us clarify the matter.

If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

William H. Webster
Director

Enclosure
① - Honorable Edward M. Kennedy

1981. I do not even specifically recall discussing all of the matters that are in this memorandum at that time.

Q What were you told at that time?

A I cannot recall, Senator.

Q If you can answer this for me: Why was not the Committee told about this information at the time?

A I could read back the answer that is in here, but it wouldn't be my answer. I really can't say--

Q We had the answer in there. Let's have your answer.

A I do not have one. I'd have to do more research and hold some discussions with agents before I could answer that question. I just don't know the answer.

Q Are there any internal memoranda concerning this?

A None that I am aware of.

Q Would you check?

A We will check.

Q We would like to have those internal memoranda.

The memo also refers to a meeting on January 28th or 29th, 1981, at which you were present when this matter was discussed. Could you tell us your recollection of the information in question, the discussion at the meeting, and the decision relative to furnishing the information to the Committee?

MR. OLSON: Is that different than the question he just responded to?

SENATOR HATCH: I think so. This is referring to an actual meeting on January 28th or 29th.

MR. OLSON: I think he just testified that he didn't have a specific recollection concerning that meeting.

SENATOR HATCH: I am talking about a direct--

BY SENATOR HATCH:

Q You didn't recall the conversation with Adamski, but there were other people there. Do you recall any conversation with any of the others?

A I do not. I thought I was answering that question previously, Senator Hatch. I just--I see by this document furnished to me that a meeting was held. I do not specifically recall the meeting.

Q Okay. You referred in a meeting with Senator Thurmond to a meeting on January 29th, 1981, at which you decided that any information coming in from then on should be handled as criminal matters under the Ethics in Government Act. Was this the same meeting we have already referred to?

As I recall, the Senator Thurmond meeting was in June of this year.

We are talking about the January 29th, 1981 meeting in this question.

A It could well have been the same meeting, Senator Hatch. I do not recall a series of meetings and, with this group together, it was very likely the same meeting. But I am going by recall. I can't give you a positive answer. It would seem likely that was the case.

Q Who attended that meeting, if you recall?

A With regard to that meeting--I am again basing my answer on information that has been furnished to me in the fairly recent past and by reviewing documents such as this--I believe in attendance was Mr. Monroe, the assistant director of the Criminal Investigative Division; Mr. Schulte, the section chief of the Special Inquiry and the Civil Rights Section; and Mr. Adamski. Others could have been in attendance; I just do not recall their identity or presence.

Q What was decided in this connection at that meeting? Do you know? Do you have any recollection of it?

A In what respect, Senator Hatch, with regard to what issue?

Q Well, you decided that any information coming in from then on should be handled as criminal matters under the Ethics in Government Act. Is there any other decision other than that?

A Upon being--having my memory refreshed and through discussions, my only recollection of the meeting is that we were getting many items of information that were very nebulous and nonspecific in nature: for example, Bud Mullen lived in New Jersey during this pertinent period, "Have you talked to him?," without any specific indication that he would have knowledge of organized crime or Mr. Donovan's activities. I do believe I advised that, if we get an allegation that there is a basis for pursuing a criminal matter, we will pursue it as a criminal matter, and that the nominee is covered by the Ethics in Government Act. And to me this represented an even better threshold for looking into any allegation.

Q Are there any internal memoranda concerning this meeting? Would you check that?

A I believe there have been several prepared since. I do not know that a memorandum was prepared based on that meeting. One may have been, but I believe several have been prepared since.

Q We would like to have that if we can. We would like to have the complete OPR report and all of the documents that were produced; and, if there were any polygraph tests, we would like to have that as well.

MR. OLSON: We will look into that and provide you with a response.

BY SENATOR HATCH:

Q The OPR inquiry determined that the information provided by the Informant on February 1, 1981 was telephonically provided to Mr. Schulte on the same day. A decision was not made to provide the information to the Committee because it was unsubstantiated by a subsequent interview of Joan Torino. Did Mr. Schulte discuss this matter with you?

MR. OLSON: Were you reading from a document?

SENATOR HATCH: I am sure we were referring to the document. Where is it?

On page three, right in the middle of that first paragraph: "The Newark supervisor stated that he telephoned the section chief on February 2nd, 1981, and advised him of the contents of the memorandum. The supervisor recalls advising the section chief that the agent had been furnished with five names but does not recall providing him the names received from the informant. The section chief recalls discussing the information concerning Briguglio's girl friend, Joan Torino, with the supervisor on the telephone and instructing him to interview her. He recalls discussing with the supervisor individuals who the informant said might know something about a Briguglio-Donovan relationship but has no recollection of any specific information being furnished to him concerning the names or descriptions of individuals who could provide that information."

What I am saying is, did Mr. Schulte discuss that with you?

THE WITNESS: I can recall no such discussion.

BY SENATOR HATCH:

Q You can't?

A Cannot. Cannot recall any such discussion.

Q Do you know any reason why this information was not provided to the Committee?

A I know of no reason other than what would be contained in this document, Senator Hatch.

Q On January 29th, 1981, you wrote a letter to me, which we will mark as Exhibit No. 32, in which you stated that you wished to state "the background investigation of Raymond Donovan conducted by the FBI was thorough and complete and the short time frame did not detract from the overall investigation inasmuch as we used substantial resources. I stand by the results of this investigation, which surfaced no information which would reflect unfavorably upon Mr. Donovan in any manner. No new information has come to my attention since my testimony before the House Committee"--I think that was meant to mean Senate Committee--"on Labor and Human Resources on Tuesday, January 27th, 1981, to mitigate any statement made during my testimony," unquote.

Now, wasn't the information received by Mr. Adamski on January 27th, 1981 new information?

(Off the record)

SENATOR HATCH: While we are waiting, let the record show that Mr. Stafford's designated staff member is now in attendance. Why don't you give your name for the record?

MR. SMITH: Tim Smith, Senator Stafford.

MR. MARSHALL: I am Bob Marshall, from Senator Denton.

THE WITNESS: Senator Hatch, I was not aware of that information when I signed this letter.

BY SENATOR HATCH:

Q Well, did you feel that it was Mr. Adamski's responsibility to convey that information to you before you signed such a letter?

A It would have been the responsibility of someone in the chain of command, either Mr. Adamski, his supervisor, or the assistant director, to have made any information available to me, enabling me to make a decision whether or not to approve a letter of this nature.

Q Had you checked with Mr. Adamski and the others before you wrote the letter, to make sure there was no additional information that had surfaced?

A Before--

Q Before you wrote the letter. Did you check with Mr. Adamski or anybody else at the FBI to determine whether or not there was any additional information that you possibly needed to give the Committee?

A I do not recall specifically who prepared this letter. Normally, a letter is prepared for my signature; so, the checks would have taken place up and down the line on something like this.

Q In a letter dated June 14th, 1982, Director Webster forwarded to the Committee a copy of an interview by the Newark office on February 9th, 1982. We will mark this as

Exhibit No. 33.

(Exhibits No. 32 and 33 were marked for identification.)

BY SENATOR HATCH:

Q This was an interview by the Newark office on February 9th, 1981, of Joseph G. Szapor, in which Szapor said that he had seen Mr. Donovan with Philip Moscato and his brother Joey Moscato at a restaurant in Jersey City on several occasions in 1976 or 1977. This was the first time the information was furnished to the Committee.

When were you first aware of this information?

MR. OLSON: The information contained in the first page--

SENATOR HATCH: The first page of Exhibit No. 33, which does include additional information; we will ask further questions about it.

THE WITNESS: Senator, this is the first time I have seen this document or can recall being made aware of the information.

BY SENATOR HATCH:

Q Did you read the newspaper accounts of this? Apparently, some of the journalists got hold of the information that was in here.

MR. OLSON: What newspaper accounts?

SENATOR HATCH: I believe the Washington Post, perhaps

U.S. Department of Justice

ederal Bureau of Investigation

Ex 32
Mullen
8/18/82

EXHIBIT NO. 32

Washington, D.C. 20535

January 29, 1981

Honorable Orrin G. Hatch
United States Senate
Washington, D. C.

Dear Senator Hatch:

In response to your inquiry this morning regarding Ralph Picardo's appearance on the Today Show which occurred this morning, I wish to make you aware of the following information:

Mr. Picardo's appearance was undertaken by him without the support or concurrence of the FBI. Mr. Picardo made arrangements for his appearance on his own, and while we cannot prevent him from dealing with the media he is doing so entirely on his own accord.

I have observed Mr. Picardo's appearance and wish to restate that the background investigation of Mr. Raymond Donovan, conducted by the FBI, was thorough and complete, and the short time frame did not detract from the overall investigation inasmuch as we utilized substantial resources. I stand by the results of this investigation which surfaced no information which would reflect unfavorably upon Mr. Donovan in any manner. No new information has come to my attention since my testimony before the House Committee on Labor and Human Resources on Tuesday, January 27, 1981, to mitigate any statements made during my testimony.

Sincerely yours,

Francis M. Mullen
Executive Assistant Director
Investigations

FEDERAL BUREAU OF INVESTIGATION

Ex 33
Muller
8/18/82

1 EXHIBIT NO. 33

Date of transcription 2/9/81

Joseph G. Szapor, a protected government witness, telephonically furnished the following information:

Szapor advised that during the period of 1960 through April, 1979, while he operated the business known as Joe's Truck Stop, 340 Tonnelle Avenue, Jersey City, New Jersey, he learned that it was "common knowledge" in the Northern New Jersey area that Schiavone Construction Company (SCC) made "payoffs" in order to obtain preferred contracts through the rigging of construction bids. Szapor advised that he had no personal dealings with SCC in a business sense, nor did he have any direct involvement with Ray Donovan or SCC in any scheme whereby "payoffs" were made for "labor peace."

Szapor advised that he knows of Ray Donovan from having observed Donovan in the presence of Philip "Brother" Moscato, along with Moscato's brother, Joey Moscato, at the Lil' Red Buggy, an Italian restaurant located just off Kennedy Boulevard in Jersey City, New Jersey. Szapor recalled having observed Donovan in Moscato's presence on several occasions during the period of approximately 1976 or 1977. The Moscato brothers did business as Moscato Brothers Construction Company (MBCC) and to the best of Szapor's recollection maintained an office in Arlington, New Jersey.

Investigation on 2/6/81 at Newark, New Jersey [redacted]

[redacted] /caw Date dictated 2/9/81

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

Senator Orrin G. Hatch
Chairman, Committee on Labor
  and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In view of the continuing interest of your Committee in Secretary Raymond J. Donovan, I recently ordered that relevant files in FBI field offices in Albany, Philadelphia, New York, and Newark be reviewed again to determine if any information had been furnished to the Office of Special Prosecutor Leon Silverman that had not also been brought to the attention of the Committee. This review disclosed that four items of information had been provided directly to the Special Prosecutor's Office without also being forwarded to FBI Headquarters and, consequently, had not been made available to your Committee. The items, copies of which are enclosed, are:

1. A report of an interview on February 6, 1981, with Joseph G. Szapor, a protected Government witness.

2. An anonymous letter to the Newark FBI Office block-stamped January 20, 1981.

3. A portion of an interview with Anthony Provenzano conducted on January 22, 1981, at the Federal Correction Institute in Lompoc, California, which makes reference to Secretary Donovan.

4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

Copies of these documents have been furnished to Mr. Silverman and he has agreed with their release to your Committee.

Senator Orrin G. Hatch

An inquiry has been conducted by our Office of Professional Responsibility to review our internal handling of these materials. A summary of the results of that inquiry is provided in the attached letterhead memorandum.

The FBI is making every effort to ensure that you and your Committee are provided with all relevant information in our possession concerning Secretary Donovan. If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

William H. Webster
Director

Enclosure
1 - Honorable Edward M. Kennedy

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

RAYMOND J. DONOVAN

In view of the continuing interest of the Senate Committee on Labor and Human Resources in Secretary Raymond J. Donovan, the Director ordered that relevant files in FBI field offices in Albany, Philadelphia, New York, and Newark be reviewed again to determine if any information had been furnished to the Office of Special Prosecutor Leon Silverman that had not also been brought to the attention of the Committee. This review disclosed that four items of information had been provided directly to the Special Prosecutor's Office without also being forwarded to FBI Headquarters and, consequently, had not been made available to the Committee. The items are:

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2. An anonymous letter to the Newark FBI Office block-stamped January 20, 1981.

3. A portion of an interview with Anthony Provenzano conducted on January 22, 1981, at the Federal Correction Institute in Lompoc, California, which makes reference to Secretary Donovan.

4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

An inquiry was conducted by the FBI's Office of Professional Responsibility to review the internal handling of these materials. A summary of the results of that inquiry is contained within this letterhead memorandum. Separate explanations are provided for each of the four documents.

The Szapor interview, the subject of the first document, was conducted in the Newark Division on February 6, 1981, three days after the Secretary's nomination was confirmed by the Senate. The Special Agent who conducted the interview cannot recall what

he did with the interview report after preparing it, but states that his normal procedure was to furnish a copy of such a report promptly to the Applicant Squad. The Supervisor of the Newark Applicant Squad does not recall seeing this document until December 1981. He notes that at the time the document would have been placed in the Donovan background investigation file, the file was physically located in the Closed Files Section.

The Newark Supervisor who received the second document, the anonymous letter, notes that similar allegations concerning cash payoffs for labor peace by Schiavone Construction Company were furnished to FBI Headquarters by teletype on January 15, 1981. He recalls that this anonymous letter came to his attention at a time when approximately 50 Special Agents of the Newark Division were working for him trying to resolve more specific allegations received during the background investigation from known individuals. He did not believe that the information in the letter was sufficiently specific regarding the alleged payoffs to permit a penetrating interview of the individuals named in the letter. He states that he did not furnish this letter to FBI Headquarters because its allegations were not specific enough to permit them to be resolved, and he had been instructed to investigate specific allegations which could be resolved.

As is apparent from the third document, the interview of Anthony Provenzano was not conducted as part of the background investigation of Secretary Donovan. He misunderstood the purpose of the interview and initiated discussion about the Secretary to advise the Special Agents that he never met Donovan and that Donovan never had a contract with his union. The Newark Supervisor who eventually received a copy of the interview report advises that he did not furnish FBI Headquarters with the information pertaining to Donovan because he did not receive it until almost a week after the Secretary's confirmation and he understood that he was not required to furnish information received at that time which tended to refute an allegation made earlier.

The New York Agent who authored the fourth document states that he prepared the memorandum on February 5, 1981, but earlier had discussed its contents on the telephone with the New York Supervisor. The Supervisor recalls that the New York Agent furnished him with informant information during a telephone conversation and that he incorporated all this information into a teletype to FBI Headquarters dated January 23, 1981. He notes that he did not receive the memorandum until after Secretary Donovan had been confirmed and only then was advised of the information in the memorandum

concerning the alleged connection between Ronald Schiavone and Jerry Catena, and the names of two individuals who may have had knowledge of activities at Schiavone Construction Company. He states that he did not furnish FBI headquarters with the memorandum because it contained no specific allegations of wrongdoing or misconduct against Secretary Donovan.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/29/81

ANTHONY PROVENZANO was contacted at the Federal Correction titute, Lompoc, California. At the outset of the interview, VENZANO was advised of the official identities of the interviewing nts. Before any further discussion by the Agents, ANTHONY PROVENZANO ted, "I know what you are here for, I talked to my lawyer this ning, I never met the man". SA CALLAHAN inquired of PROVENZANO t he meant. PROVENZANO advised, "I'm talking about that guy OVAN who has been selected by REAGAN for a Cabinet post".

REDACTED

I just wanted you to know that I never met OVAN and he never had a contract with my union".

REDACTED

Investigation on 1/22/81 at Lompoc, California File # ~~Detroit~~

Date dictated 1/27/81

FEB 4 1981

is document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

101491

Exhibit 68

even the New York Times and, I believe, Fortune magazine.

MR. OLSON: Are we talking about newspaper or magazin accounts in 1982?

SENATOR HATCH: Yes.

MR. OLSON: And the question is whether he was aware of those or read those.

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q And were you aware of these allegations?

A I've read several newspaper accounts, items relating to the Donovan matter; but I do not recall specifically reading about this particular information.

Q The only thing that bothers me is, even internally hasn't the FBI asked you what role you played in some of these, the late deliveries to the Committee?

MR. OLSON: I am not sure I understand the import of your question, Mr. Chairman. Are you talking about a document that is dated itself February 9, 1981?

SENATOR HATCH: Right.

MR. OLSON: Mr. Mullen has been at the Drug Enforcement Administration for over a year.

SENATOR HATCH: But in addition to being--

(Off the record)

SENATOR HATCH: Let's clarify the record. In additio to being at DEA, you still retained your position at the FBI

)

during that complete period of time.

THE WITNESS: I have because of--

BY SENATOR HATCH:

Q Are you saying you didn't function in that position?

A I didn't function in the position. The duties were assumed by the other executive assistant directors because--

Q I think we better put that on the record because that would be embarrassing if somebody read that, knew that you still retained the position. But you didn't function really in that position?

A I have not functioned in the position.

Q Okay.

Are you aware of any communication between the Newark office and FBI headquarters at the time of the interview about this memorandum's contents relating to Joseph G. Szapor, S-z-a-p-o-r?

A I am not.

Q Actually, you were not aware of the memorandum or of this particular matter?

A Are you referring to item 33?

Q Yes, the first page of item 33 regarding Joseph Szapor.

A I, of course, have heard the name Moscato. This--

Q You have not seen this?

A Never have seen this document before today, Senator

Hatch.

Q The same letter from the director, the letter that shows up as the second page in this Exhibit 33, dated June 14th, 1982, to me from the director of the FBI. In that same letter from the director there was forwarded an anonymous letter to the Newark office with the date stamped on it, January 20th, 1981, in which allegations were made about the Schiavone Company making payoffs for labor peace in Paterson, New Jersey, along with other allegations. According to the OPR inquiry concerning this, the Newark supervisor said that similar allegations concerning cash payouts for labor peace by the Schiavone Company had been furnished to FBI headquarters by teletype on January 15th, 1981. He did not furnish the information to FBI headquarters at the time because the allegations were not specific enough and he had been instructed to investigate specific allegations that could be resolved.

Now, did you or anyone at FBI headquarters discuss this document with the Newark office at the time?

MR. OLSON: Senator, we do not have a copy of the anonymous letter dated January 20, 1981, in front of us.

SENATOR HATCH: We will mark that as Exhibit 34 and pass it to you.

(Exhibit No. 34 was marked for identification.)

MR. OLSON: What is your question, Senator?

Federal Bureau of Investigation
P.O. Box 1158
Newark, New Jersey 07101

Ex 34 Mullen 8/10/82 Ex 11

[redacted]

Dear Sir: EXHIBIT NO. 34

Iread about your confiscating the records of Schiavone Construction regarding Donovan (candidate for Dept. of Labor post).

While going throughthose files, you may be interested to look into the payoffs to the late Don Wallace (recently murdered) & Jim Doyle (Business agents for Ironworkers Local 11); Jack Templeton (Ironworkers Local 483 in Paterson); Gene Arny & Frank Wade (Business agents for Ironworkers Local 480 in Elizabeth and advisor/associates to mob boss John Riggi); and John Riggi (Business agent for Laborers Local 394 in Elizabeth - currently the head of the 'Sam the Plumber' DeCalvacant family, whose Local is loaded with immigrants without visas paying off to work out of Local 394 to Riggi.

I know for a fact that Schiavone has paid off for 'job peace' to each and every one of the above mentioned, for work done on the Turnpike & Sewage Plants & Meadowlands jobsites in the Paterson, Newark, Elizabeth, Linden & Amboy territories (McCloud is the B.A. for the Amboy Ironworkers Local 373. Look at the figures involved at the Sewage plant in his territory).

Schiavone & Briscoe-Arace Conduit Construction companies made very wealthy people out of the above named. Templeton & Wallace for the Meadowlands, Turnpike & Sewage Plant 'job peace'; Arny, Wade & Riggi for 'job Peace' at the Sewage Plants, Turnpike & waterfront construction sites paid by Schiavone Const. & Briscoe- Arace-Conduit Const. & Cornell of Camden; Riggi gets his weekly from laborers who pay to keep their jobs.

It's about time someone opened up that can of worms. Ask Donovan about his affiliations with the above named, he knows them and his payoffs them are there.

116-3133-7
SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
JAN 20 1981
[redacted]

Jan 20, 1981 →

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

RAYMOND J. DONOVAN

In view of the continuing interest of the Senate Committee on Labor and Human Resources in Secretary Raymond J. Donovan, the Director ordered that relevant files in FBI field offices in Albany, Philadelphia, New York, and Newark be reviewed again to determine if any information had been furnished to the Office of Special Prosecutor Leon Silverman that had not also been brought to the attention of the Committee. This review disclosed that four items of information had been provided directly to the Special Prosecutor's Office without also being forwarded to FBI Headquarters and, consequently, had not been made available to the Committee. The items are:

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he did with the interview report after preparing it, but states that his normal procedure was to furnish a copy of such a report promptly to the Applicant Squad. The Supervisor of the Newark Applicant Squad does not recall seeing this document until December 1981. He notes that at the time the document would have been placed in the Donovan background investigation file, the file was physically located in the Closed Files Section.

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As is apparent from the third document, the interview of Anthony Provenzano was not conducted as part of the background investigation of Secretary Donovan. He misunderstood the purpose of the interview and initiated discussion about the Secretary to advise the Special Agents that he never met Donovan and that Donovan never had a contract with his union. The Newark Supervisor who eventually received a copy of the interview report advises that he did not furnish FBI Headquarters with the information pertaining to Donovan because he did not receive it until almost a week after the Secretary's confirmation and he understood that he was not required to furnish information received at that time which tended to refute an allegation made earlier.

The New York Agent who authored the fourth document states that he prepared the memorandum on February 5, 1981, but earlier had discussed its contents on the telephone with the New York Supervisor. The Supervisor recalls that the New York Agent furnished him with informant information during a telephone conversation and that he incorporated all this information into a teletype to FBI Headquarters dated January 23, 1981. He notes that he did not receive the memorandum until after Secretary Donovan had been confirmed and only then was advised of the information in the memorandum

concerning the alleged connection between Ronald Schiavone and Jerry Catena, and the names of two individuals who may have had knowledge of activities at Schiavone Construction Company. He states that he did not furnish FBI Headquarters with the memorandum because it contained no specific allegations of wrongdoing or misconduct against Secretary Donovan.

U.S. Department of Justic

Federal Burea

Office of the Director

Washington, D.C. 20535

June 14, 1982

Senator Orrin G. Hatch
Chairman, Committee on Labor
and Human Resources
United States Senate
Washington, D. C. 20510

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1. A report of an interview on February 6, 1981, with Joseph G. Szapor, a protected Government witness.

2. An anonymous letter to the Newark FBI Office block-stamped January 20, 1981.

3. A portion of an interview with Anthony Provenzano conducted on January 22, 1981, at the Federal Correction Institute in Lompoc, California, which makes reference to Secretary Donovan.

4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

Copies of these documents have been furnished to Mr. Silverman and he has agreed with their release to your Committee.

Senator Orrin G. Hatch

An inquiry has been conducted by our Office of Professional Responsibility to review our internal handling of these materials. A summary of the results of that inquiry is provided in the attached letterhead memorandum.

The FBI is making every effort to ensure that you and your Committee are provided with all relevant information in our possession concerning Secretary Donovan. If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

William H. Webster
Director

Enclosure
1 - Honorable Edward M. Kennedy

BY SENATOR HATCH:

Q Had you seen that before?

A I had not seen it before, nor have I held any discussions regarding this document.

Q Do you know what instructions the Newark supervisor is referring to in his explanation?

MR. OLSON: You are now referring to the second page, I believe, of Exhibit 34, the first full paragraph.

SENATOR HATCH: Yes.

MR. OLSON: And your specific question relates to the instructions--

SENATOR HATCH: Were they general instructions notwithstanding this specific document?

MR. OLSON: Your question is, as I understand it, does the witness know what instructions that sentence refers to?

SENATOR HATCH: That is basically right.

BY SENATOR HATCH:

Q Go ahead.

A I do not know what instructions were issued to the Newark office.

Q Do you know who gave those instructions?

A I do not, Senator Hatch.

Q Do you know if the instructions were given to all the offices or just Newark?

A I do not know what instructions were issued, if any, to any office.

Q Then you do not know what allegations were in the January 15th, 1981 teletype, which were mentioned by the Newark supervisor?

MR. OLSON: That is referring to what?

SENATOR HATCH: The first full paragraph says: "The Newark supervisor received the second document. The anonymous letter notes that similar allegations concerning cash payouts for labor peace by Schiavone Construction Company were furnished FBI headquarters by teletype on January 15th, 1981." That is what we are referring to.

BY SENATOR HATCH:

Q You don't know anything about that?

A It would be kind of broad to say I don't know anything about it. I would have to know what was in the teletype. I do not recall seeing this teletype at this time.

Q Can you produce the teletype?

A If one does exist, I am sure it can be produced. I just don't recall--

Q Again, let's produce that teletype. We would like a copy of the teletype, which we may or may not enter into the record.

And the same letter of June 14th, 1982, forwarded a report of an agent of the New York office dated February 5th, 1981, in which he referenced telephone conversations between himself and his supervisor on January 22nd, 23rd, and 27th, in 1981. The agent indicated that, as a result of those calls, he contacted three sources who had furnished reliable and verified information in the past, among other things. One source said he understood that the Schiavone Company received its main backing and influence from Ronald Schiavone's connections with New Jersey union figure Pete Weaver and hoodlums such as Jerry Catena, C-a-t-e-n-a. One source furnished the names of two persons who might furnish additional information.

The OPR inquiry indicated that the New York agent said that he prepared the report on February 5th, 1981, but had discussed its contents with the supervisor earlier. The supervisor said he had incorporated the information into a teletype to FBI headquarters dated January the 23rd, 1981, but did not know of the allegation about Schiavone's connection with Jerry Catena and the names of other prospective sources until he saw the February 5th, 1981 report.

Do you recall or were you aware of the January 23rd, 1981 teletype from the New York office to FBI headquarters?

A I do not recall it, nor am I aware of it.

Q You may or may not be aware of it.

A I am not aware of it.

Q So, you don't know what its contents were then? And you were unaware of the allegation about Jerry Catena then?

A That is correct, Senator Hatch.

Q Was the supervisor--excuse me.

(Off the record)

THE WITNESS: Senator Hatch, I should explain that my position at the FBI would not call for me to see all of these documents. Hundreds of teletypes come in on a daily basis. I usually see a completed summary or document or note perhaps. But teletypes are not sent to my level--

BY SENATOR HATCH:

Q But the people who would have seen it would have been people--

A In the Special Inquiry--

Q --at Mr. Adamski's level or lower. Is that it?

A Perhaps as high as Mr. Schulte, the section chief, Mr. Adamski, and then the next-lower level--

Q But you would normally not see the teletypes?

A Would not see them.

Q We would like to have that teletype, that January 23rd, 1981 teletype as well.

MR. OLSON: As I understand it from our earlier conversation, there will be a letter from the Committee that will set forth these various requests so we can deal with them specifically.

SENATOR HATCH: I thought what we would do is just at the end you and Mr. Flannery just get together and orally get the details down.

MR. OLSON: I would prefer, Senator, I think it would be in the best interests of the Committee and our best interest to have a specific writing setting forth the requests so that we can respond to them.

SENATOR HATCH: Well, we think the transcript's specific, but--

MR. OLSON: I beg to differ with you, because I have reviewed the transcripts; and we have had some either misunderstandings, either because we have not read them correctly or because they have not been sufficiently specific. I want to avoid--

SENATOR HATCH: We will prepare a letter.

MR. OLSON: Thank you.

SENATOR HATCH: This February 5th, 1981, memorandum concerning the telephone calls between the writer and the supervisor, January 22nd, January 23rd, and January 27th, 1981, we will make a part of the record as Exhibit 35.

(Exhibit No. 35 was marked for identification.)

BY SENATOR HATCH:

Q Do you know if the supervisor was following instructions not to furnish the information unless it contained specific allegations or allegations of wrongdoing or misconduct against Mr. Donovan?

Memorandum

EXHIBIT NO. 35

Ex 35 Mullen 8/18/82 [redacted]

To : ADIC, NEW YORK (161B-7053)
[redacted]

Date : 2/5/81

From : [redacted]

Subject : RAYMOND J. DONOVAN, DESIGNEE
FOR SECRETARY OF LABOR;
INFORMATION CONCERNING

Rephonecalls between the writer and Supv. [redacted] 1/22,23,27/81.

Attached is a column from N.Y. Daily News of 2/5/81 by I. D. ROBBINS that in part dealt with captioned matter.

As a result of re phone calls, the writer made contact with three cooperating witnesses developed as sources knowledgeable about construction contractors in the NY-NJ area [redacted] Each of these three sources has in the past furnished reliable and verified information.

All three sources were familiar with the Schiavone Construction Co. of Secaucus, NJ and of the fact this company had done both road work and sewer [redacted] [redacted] work on Long Island (L.I.).

Two of the sources said they had never met DONOVAN and knew RON SCHIAVONE as the primary principal and decision maker for the company that bears his name.

All three said they assumed the Schiavone Company, like most if not all others, had entered into agreements with various locals of IBT and/or Operating Engineers to have master mechanics on jobs who do not do too much work. All three said they knew of no specific payoff to or from anyone that would tie in either DONOVAN, SCHIAVONE or the firm.

5-New York
[redacted]

[redacted]
(b)(3)
[redacted]

161B-705

SEARCHED ✓ INDEXED
SERIALIZED ✓ FILED
FEB 1 [illegible] 1981
FBI — [illegible]

One source stated he believed for the Shiavone Company to come to L.I. and get work they would have had the approval of either Local 282 IBT or Local 138 Operating Engineers. He believes Schiavone came to L.I. with the backing of JOHN CODY of Local 282 and over the objections of WILLIAM DEKONING, JR. the former president of Local 138. This same source understands that the Schiavone Firm gets its main backing and influence from RON SCHIAVONE's connections to NJ union figure PETE WEBER and hoodlums such as JERRY CATENA.

Neither this last named source nor either of the other two could link DONOVAN to any such union or hoodlum connection.

One source did describe the following persons who may have knowledge about activities at the Schiavone firm and may not be willing to remain silent if they knew of criminal conduct by either RON SCHIAVONE or DONOVAN:

> JOHN COLAO (PH) - a former construction superintendent for Schiavone who was fired in about 1973. He may have worked thereafter for two firms located at Darien, Conn., [redacted]
>
> EDDIE COLE (PH) - a former employee of RON SCHIAVONE and possibly his former brother-in-law. He was from the same union in NJ as PETE WEBER and he was a master mechanic on jobs where the Schiavone firm was the general contractor. COLE would have been in a position to know about payoffs and who at the Schiavone, if anyone, was involved.

[redacted]

[redacted]

DAILY NEWS

2-5-81

DAILY NEWS FEB 5, 1981

Construction graft

ON THE NATIONAL front, Raymond J. Donovan, a New Jersey contractor who is President Reagan's designee for secretary of labor, is under a cloud. His company is alleged to have bought protection from labor racketeers.

Paying either for protection, or to be let alone, or for preferential treatment is a fact of life in large-scale contracting.

I.D. Robbins

The construction industry is full of men and companies that agree to crazy terms with unions, then try to escape the consequences. Typical of the outrages is a contractors' association arrangement with certain operating-engineer unions. For every four engineers who work—bulldozer, crane, cherry-picker operators, etc.—a contractor must pay two who do no work. Each of them makes as much as $2,000 a week. One is laughingly called a "working foreman." The other is known as a "master mechanic." The working foreman can usually be induced to go out for coffee, while the master mechanic knows how to use the telephone. When union officials change, new guys get the juicy assignments.

"Elevator constructors" have been known to get $700 a week to sit on chairs in elevator lobbies while Teamsters move in the tenants' furniture. Steamfitters have jurisdiction over refrigeration; in New York apartment construction, they must be hired to put the refrigerator plug in the electric outlet.

Shakedowns are bad, but it takes guts to oppose them. Considering the risks, if Donovan was short in the guts department, we sympathize with him. If he tried to buy special treatment not available to other contractors, he might be a success in business, but we don't need him in the Labor Department.

161B-7053

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
FEB 1981
FBI — NY

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director
Washington, D.C. 20535

June 14, 1982

RAYMOND J. DONOVAN

In view of the continuing interest of the Senate Committee on Labor and Human Resources in Secretary Raymond J. Donovan, the Director ordered that relevant files in FBI field offices in Albany, Philadelphia, New York, and Newark be reviewed again to determine if any information had been furnished to the Office of Special Prosecutor Leon Silverman that had not also been brought to the attention of the Committee. This review disclosed that four items of information had been provided directly to the Special Prosecutor's Office without also being forwarded to FBI Headquarters and, consequently, had not been made available to the Committee. The items are:

1. A report of an interview on February 6, 1981, with Joseph G. Szapor, a protected Government witness.

2. An anonymous letter to the Newark FBI Office block-stamped January 20, 1981.

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4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

An inquiry was conducted by the FBI's Office of Professional Responsibility to review the internal handling of these materials. A summary of the results of that inquiry is contained within this letterhead memorandum. Separate explanations are provided for each of the four documents.

The Szapor interview, the subject of the first document, was conducted in the Newark Division on February 6, 1981, three days after the Secretary's nomination was confirmed by the Senate. The Special Agent who conducted the interview cannot recall what

he did with the interview report after preparing it, but states that his normal procedure was to furnish a copy of such a report promptly to the Applicant Squad. The Supervisor of the Newark Applicant Squad does not recall seeing this document until December 1981. He notes that at the time the document would have been placed in the Donovan background investigation file, the file was physically located in the Closed Files Section.

The Newark Supervisor who received the second document, the anonymous letter, notes that similar allegations concerning cash payoffs for labor peace by Schiavone Construction Company were furnished to FBI Headquarters by teletype on January 15, 1981. He recalls that this anonymous letter came to his attention at a time when approximately 50 Special Agents of the Newark Division were working for him trying to resolve more specific allegations received during the background investigation from known individuals. He did not believe that the information in the letter was sufficiently specific regarding the alleged payoffs to permit a penetrating interview of the individuals named in the letter. He states that he did not furnish this letter to FBI Headquarters because its allegations were not specific enough to permit them to be resolved, and he had been instructed to investigate specific allegations which could be resolved.

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concerning the alleged connection between Ronald Schiavone and Jerry Catena, and the names of two individuals who may have had knowledge of activities at Schiavone Construction Company. He states that he did not furnish FBI Headquarters with the memorandum because it contained no specific allegations of wrongdoing or misconduct against Secretary Donovan.

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

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Chairman, Committee on Labor
and Human Pesources
United States Senate
Washington, D.C. 20510

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Sincerely,

William H. Webster
Director

Enclosure
1 - Honorable Edward M. Kennedy

MR. OLSON: Are you reading from a document?

SENATOR HATCH: No. I am just talking about this particular document, Exhibit No. 35.

MR. OLSON: In a particular--

SENATOR HATCH: Or any other documents at that time. Was the supervisor following any instructions not to furnish information unless it contained specific allegations or allegations of wrongdoing or misconduct against Mr. Donovan?

BY SENATOR HATCH:

Q Was there any instruction to that effect?

A I know of no instructions that were issued in that regard, Senator Hatch. I do not know what conversations took place between the bureau supervisors and field supervisors, but I know of no instructions of that nature that were--

Q Would Adamski or Schulte know about that, if there were any?

A They may be able to enlighten you on that.

Q Would there be anybody else authorized to give instructions or even to receive them on that level, those type of instructions?

A Authorized to give instructions--

Q Not to furnish informa--

A Not to give instructions not to furnish information--

Q So, it would be at Mr. Adamski's level or yours.

A We have rules within our manuals, and agents are trained in how to handle information that comes to their attention. They should recognize that which should be pursued and that which shouldn't. I know of no such instructions that were issued.

Q To your knowledge, was the information in the January 23rd, 1981, teletype included in the January 23rd, 1981, report that was furnished to the Committee?

A I believe it's now the January 23rd teletype we have been discussing, and I do not know what was in the teletype so I can't answer whether or not it was included in the January 23rd report. I think someone else would have to answer that question.

Q Would you be involved in the decision to seek court authorizations for the electronic surveillance of William Masselli in January of 1979?

A My role in the court-authorized electronic surveillances, when there is an affidavit, an application for a court-ordered wiretap, it is normally processed simultaneously by the Department of Justice and FBI headquarters. It moves along the chain of command. For example, if it is in the Organized Crime Section, it is reviewed there, reviewed by our legal counsel, and then it proceeds up the chain of command to the Director of the FBI, who personally signs it. At some point in the chain of command, either as assistant director or as executive assistant director, if I am present, I would sign and approve this and then send it on to Director Webster.

Q But you don't know specifically whether you were involved in that particular electronic surveillance?

A I do not.

Q Would the director himself have been involved, or does he get involved in those?

A The director approves every wiretap request.

Q Let me ask you this--

A Senator Hatch, if I could elaborate further. Mr. Olson reminds me. The same procedures, if he is present in town, his office approves those, if he should be out of the city, the individual acting in the capacity of director would approve for him.

Q Do you review every request in your capacity as supervisor or assistant director? Did you review every request?

A Every request for wiretap?

Q Yes.

A Every one, as assistant director or executive assistant director, if I am present, must go through those offices.

Q Now, I take it that the request for authorization is generally always supported by an affidavit, right?

A Yes, it is.

Q You don't know in this case who signed the affidavit in 1979 for the Masselli wiretap?

MR. OLSON: Person or persons?

SENATOR HATCH: Yes.

THE WITNESS: I do not.

BY SENATOR HATCH:

Q If the wiretap is extended beyond the original 30-day limit, would your office also have been involved in each renewal of the wiretap? Would have to be, wouldn't it?

A Now, your question is if it is extended beyond the --

Q Extended beyond the 30-day --

A We often have wiretaps more than 30 days, but if there is an extension of any wiretap, it is processed as almost a new application.

Q So it would still go through your office?

A Still go through.

Q In this particular matter, as I recall it, Masselli wiretaps lasted a total of around seven months.

Do you know if that was a seven-month authorization or whether that came across your desk several times? It was generally --

A The court approved the -- I have to review the law, but I believe it goes as long as 90 days, but the court authorizes the time and if there is an extension, it would be submitted as a new application and reviewed again just as if it were an original, and material obtained on the original wiretap would be included in the affidavit in applying for the extension.

Q Do you know who signed the original affidavit on -- for the Masselli wiretaps?

A I do not know.

Q Could it have been yourself?

A Signed the affidavit?

Q Yes.

A No. That is done by the field agents. My approval, Senator Hatch, would be in the request. I would look for things such as whether it had been reviewed by the legal counsel, whether all of the items required are present.

Q I understand.

Were there periodic teletypes, summaries, reports and correspondence between the New York FBI office and the FBI headquarters concerning the results of the surveillance and the desirability of continuing?

MR. OLSON: This is with respect to the Masselli matter?

SENATOR HATCH: Masselli.

BY SENATOR HATCH:

Q And if so, who reviewed those documents?

A I can state what procedure is and what I would expect to be the case, but I can't state with a certainty that there were periodic teletypes in the case.

Q But there were summaries, reports and correspondence in addition to teletypes, possibility of teletypes?

A Senator Hatch, I would presume or assume that there were but I have no knowledge of what material would have been in there, the dates --

Q You have no present knowledge is what you are saying?

A No. That is correct.

Q Do you know who did review these documents at the FBI headquarters, who reviewed them in the New York FBI office and who reviewed them at the Justice Department?

MR. OLSON: He stated that he was presuming these documents existed so I assume your question takes that into consideration?

SENATOR HATCH: That is right.

THE WITNESS: I have no idea who reviewed them at the Department of Justice, but agents assigned to the Organized Crime Section at FBI headquarters normally reviewed documents of this nature.

BY SENATOR HATCH:

Q Were you aware of when the surveillance of Mr. Masselli ended?

A I was not.

Q Do you know why it ended?

A I do not.

Q Now, in this Exhibit No. 22, in the middle column under Raymond Donovan, it says, "The Masselli tapes, by contrast, represented a departure from standard procedure, Mullen acknowledged, in that the agent in charge of the case considered them so important that 'everybody mentioned' and every company, eventually 24,000 references, were put on a computerized index."

Do you recall saying that?

A I recall saying that.

Q Who was the person that you were referring to as the agent in charge of the case?

A Mr. Moody.

Q Mr. Moody.

And do you know what his first name was?

A I believe it is Jim Moody.

Q What?

A James, I believe James.

Q Now, who briefed you so that you knew that knowledge about the 24,000 references?

A Mr. Moody.

Q Moody did.

What type agents were assigned to monitoring the surveillance, do you know?

MR. OLSON: Are you referring to the Masselli matters?

SENATOR HATCH: Yes, still referring to Masselli.

THE WITNESS: I do not know.

BY SENATOR HATCH:

Q Do you know if they kept logs, one for each day?

A It is a practice to keep logs. Whether they kept them or not, I do not know. I have not seen them.

Q Do you know if transcripts were made from those logs?

A I do not know.

Q Do you know where those logs or those possible transcripts would be?

A I do not.

Q You don't know where they would normally be kept?

A I have no knowledge of logs or whether they kept them in this particular case.

Q Do you know if the overhears and the references were entered into the computerized system?

A I have been advised by Mr. Moody that some records were computerized in the Masselli case.

Q What is the system called?

A This would be our ISIS system, Investigative Support Information System.

Q Do you know when that began?

A I do not.

Q Do you know when the electronic surveillance reports were ended?

A I do not, Senator Hatch.

Q Was there information on the tapes about the formation of the Jopel Company by William Masselli and Senator Joseph Galiber, G-a-l-i-b-e-r, as a minority business enterprise? Do you know that?

A I do not know.

Q Now, you have already -- the FBI has already furnished the Committee an excerpt from the tapes. I might mention you did talk about their context -- their contents in this Washington Post article. But you don't recall anything presently?

MR. OLSON: Can you refer us specifically to what you are talking about, Senator?

BY SENATOR HATCH:

Q Well, in your interview with Mr. Lardner and, as I recall, two other journalists, you go into a lot of business dealings between Schiavone and Masselli. You indicate they were legitimate business dealings. Masselli is in prison, why he is in prison, how he took over the assets of Louis

Nargi and yet built Jopel into a multimillion dollar business.

Then you said he could well have -- you could well have known at the time of Donovan's confirmation proceedings that the reports that Masselli had muscled Nargi aside, that was what a good part of the investigation targeted -- that Masselli was all about.

MR. OLSON: Mr. Chairman, we are at a disadvantage because we do not have that.

SENATOR HATCH: You do not have that again?

MR. OLSON: We do not have that.

BY SENATOR HATCH:

Q I think what I am leading to is was there any information on the tapes concerning the takeover of Nargi's business by Masselli through Jopel? Was there any of that on the tapes to your knowledge, if you know?

A Not to my knowledge nor do I know at this time. I believe I must elaborate at this time. I don't want to leave you with the impression that I did not know about the Tumcon investigation. I cannot recall associating Masselli with that investigation at the time I testified on Tumcon January 27th. But prior to the testimony, and perhaps throughout 1979, or at some period in '79, I was aware of an ongoing investigation. I associate it with the name and was aware of some facets of that investigation.

Q Were you aware of the threat to Nargi's life at any time? Were you aware of that?

A At any time? It seems the past few days I read a document furnished perhaps by the Committee on that.

Q This is the only time you became aware of any threats on his life?

A That is right.

Q Okay.

Was there any information on the tapes about a mob sitdown which endorsed the takeover of Nargi's business by Masselli?

A I do not know.

Q Let me ask you this.

Did a Grand Jury investigation in the Southern District of New York, if you know, investigate the possible fraudulent formation of Jopel as a minority business enterprise, that is, as a subcontractor of Schiavone Construction Company?

MR. OLSON: Could you possibly restate that question?

BY SENATOR HATCH:

Q Did the Southern District of New York investigate the possible fraudulent information -- not information but the possible fraudulent formation of Jopel as an MBE, minority business enterprise, while -- as a subcontractor for Schiavone or to become a subcontractor?

A I do not know, Senator.

Q I might mention that as I recall your prepared statement, it did refer to that. Page 254, it said, "It was determined that the Schiavone Construction Company was, among numerous others, a subject of the Labor Management Relations Act of 1947. A racketeer and corrupt organization" -- not a -- "a racketeer influenced and corrupt organization investigation involving allegations a union president has misused union pension and welfare funds and received extensive kickbacks for approving loans and awarding sweatheart contracts. Mr. Donovan is not a target of this investigation."

But then in the next paragraph it says, "This investigation in part concerns the fraudulent establishment of a minority business enterprise by certain individuals and the use of services of subcontractor who is an alleged minority business enterprise by Schiavone Construction Company. Neither Mr. Donovan nor Schiavone Construction Company is the target of this investigation."

I think that forms the basis of my question about the Grand Jury investigating Jopel as an MBE.

MR. OLSON: And your question is whether that reference to his testimony on January 27, 1981, refreshes his recollection with respect to --

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q Does that refresh your recollection that you -- because you just said you didn't know about this?

A I still do not know what the Grand Jury inquired into. I can't say that they --

Q So what you are saying is that this is part of your statement and it was prepared for you and you are not sure what they went into other than what you said here?

A I would have to see the Grand Jury testimony.

Q Do you know when the Grand Jury investigation began or who was involved --

A Unless it is in a document, I do not know.

Q So you don't know who was in charge of it at the U. S. Attorney's office?

A No, I do not.

Q Does a name like Ross strike a bell with you, Michael Ross?

A No. I wouldn't be acquainted with the attorneys in charge of the case.

Q Okay.

Were there any other investigations conducted by the FBI in conjunction with the Grand Jury or separately as a result of information obtained from the Masselli case?

A I don't know from personal knowledge exactly what investigation was conducted. Again, an assumption on my part that there would have been additional investigation because I understand sensitive information was obtained.

Q Okay.

Were some cases developed which appeared to have the potential for criminal prosecution off of the Masselli tapes?

A Putting together my knowledge of Tumcon and the awareness that Masselli was involved in that case, cases were developed that had potential for prosecution.

Q Were there any relationship to this case of Schiavone and Donovan?

A None that I know of in relation to Schiavone or Donovan.

Q Was there -- were there memoranda, teletypes, summaries and/or correspondence between the New York office and FBI headquarters concerning the Jopel case and other cases related to Donovan, if you know?

MR. OLSON: I don't understand your question.

BY SENATOR HATCH:

Q I think what we are saying is -- we are trying -- it is an all-embracing question asking for any memoranda, teletypes, summaries and/or correspondence between the New York office and FBI headquarters concerning the Jopel case.

MR. OLSON: The problem I have with the question is that there have been references before to communications. I am not sure whether they involved communications from New

York to FBI headquarters, but with the name Jopel in it.

Could you possibly be more specific?

BY SENATOR HATCH:

Q We are asking about investigations.

MR. OLSON: You asked about whether there were any communications relative to a certain subject.

BY SENATOR HATCH:

Q Relative to Jopel.

A I am not aware of any specific communications dealing with Jopel. I am certain at this point, with all of the inquiry that has gone on, would have been mentioned in numerous communications.

Q How about other cases?

A Now, there, I don't know what we are --

Q Do you know how many prosecutions came out of the Masselli tape overhears?

A I do not.

Q Were any of the cases prosecuted other than the two to which Masselli pleaded?

A I do not know, Senator Hatch.

Q Were there any other recommendations or any other prosecutions, to your knowledge?

A I was not a part of the process.

Q Do you know who would know at the FBI on these matters?

A The most knowledgeable person I can think of is Agent Moody regarding the case.

Q Were you involved in the decision to indict Masselli in May of 1981?

A Not involved in the decision. That is not a decision I would be involved in in any case.

Q Okay.

Were you involved in or consulted relative to the decisions that resulted in the Masselli pleads?

A I was not.

Q Do you know who was involved?

A I do not.

Q Do you know who made the decisions?

A I do not.

Q Were you involved in or consulted relative to the decision not to pursue the other cases that came off of the Masselli tapes, if there were any?

A I was not. This is -- these decisions are usually in the arena of the prosecutors.

Q I see.

So they would not be made by the FBI?

A That is correct. The FBI presents evidence and the prosecutor determinations are made by the United States Attorney.

Q However, the FBI always does have input into these decisions. Do you know who would have made the input on the Masselli decisions, whether to indict -- whether to accept his pleas?

A I do not.

Q Okay.

According to the article in the Washington Post on June 6, 1982, you said that the agent in charge of the Masselli case considered the Masselli case so important that every person and company mentioned, 24,000 references, were put on a computer index and that you therefore did know at the time of the confirmation hearings that there were references to other Schiavone officials and a lot of business dealings between Schiavone and Masselli which you understood to be legitimate.

Do you know what the costs were to computerize the 24,000 references, any idea?

MR. OLSON: The witness does not -- were you quoting from the article?

SENATOR HATCH: Yes.

MR. OLSON: May we have a copy?

SENATOR HATCH: I wasn't quoting directly but I was summarizing.

BY SENATOR HATCH:

Q You don't disagree with that, do you?

MR. OLSON: I think we would have to have it in front of us.

SENATOR HATCH: I would say the middle column is where we are looking at, the paragraph above the bottom.

MR. OLSON: I simply want to make the point, Mr. Chairman, that we can't necessarily agree or disagree with your characterization of it. Your question, however, is --

SENATOR HATCH: No problem. I am just trying to hurry up the discussion here.

MR. OLSON: And your question is?

BY SENATOR HATCH:

Q All I am saying is you mentioned 24,000 names, references, that were put on a computerized index.

Do you know how much it cost to do that?

A Financial cost?

Q Yes, approximately.

A I do not.

Q Do you know who was the agent in charge that thought the Masselli tapes were so important? Is that Moody?

A Moody.

MR. OLSON: Is this a convenient opportunity to take a brief recess?

SENATOR HATCH: We are just about finished. I think we can just about get through.

By the way, is Mr. Adamski ready to go? I doubt if it would be much more than 10 or 15 minutes.

MR. OLSON: He was going to be with us this morning. He was with us when we left the Department of Justice. I don't know where he is at this moment. He is probably in the near vicinity.

SENATOR HATCH: Just check because we will be ready to go.

BY SENATOR HATCH:

Q Now, in the Washington Post article on the next to the last paragraph in that middle column under the picture of Raymond J. Donovan, it says that the Massolli tapes, by contrast, represented a departure from standard procedure.

Who would have participated in agreeing to that departure?

A The case agent and the field supervisor could make that decision. It was their case.

Q But you did not?

A I did not.

Q Let me ask you this, Mr. Mullen.

Now, we have been general, asked questions turning around what your function or position was at this time as Assistant Director, et cetera.

Now, as we have taken this deposition, there have been a lot of matters that you are not aware of and could not recall.

MR. OLSON: We understand this to be a closed hearing of the Senate Labor and Human Resources Committee and not a deposition.

SENATOR HATCH: It is closed. Why, is there something --

MR. OLSON: You referred to the term "deposition."

SENATOR HATCH: Okay.

Well, I am using the term generically, not as a term of art. But it is a sworn statement is what we are taking here, and with the understanding that these transcripts will most likely be made a part of the record that the Committee will report on.

MR. OLSON: I wasn't quarreling with that aspect of it. It is my understanding that it is a hearing of the Committee.

SENATOR HATCH: It is.

Now, let's clarify. Our agreement with the Justice Department is that this would be sworn testimony on the record. That is exactly what we are doing, but we have close this proceeding just to get that language straight.

MR. OLSON: I am not quarreling with your characterization of its being closed to the public.

BY SENATOR HATCH:

Q Now, as I understand it, you held what positions during all of this time, from December of 1980 through the present time? In December of 1980, what position did you have?

A December of 1980 I was the Executive Assistant Director, Investigations, for the Federal Bureau of Investigation.

Q O.K. So you were -- in December of 1980, Assistant Director of Investigations --

A Executive Assistant Director --

Q Executive Assistant Director for Investigations for the FBI?

A That is correct.

Q What was your next position?

A On July 13 --

Q 1981?

A of '81, 1981, I was named Acting Director of the Drug Enforcement Administration.

Q So you were either the Executive Assistant Director of Investigations or Acting Director of the --

A Acting Administrator of the Drug Enforcement Administration.

Q All right. Now, as Executive Assistant Director -- or is it -- is it Executive Assistant Director?

A That is correct.

Q During this period of time, especially between December 1980 and the end of June 1982 -- and you were over at the Investigative Section of the FBI?

A Both Investigative Divisions, Criminal and Intelligence.

Q So you had both Criminal and Intelligence?

A That is correct.

Q How many agents did you have working under you, approximately?

A The Investigative Divisions probably account for in excess of 7,000 FBI --

Q You had 7,000 FBI agents working for you during this period of time?

A That is correct.

Q How many in Intelligence?

A That is classified, Senator Hatch. I could tell you off the record.

Q Would it be more than a hundred?

A Yes.

Q More than a thousand?

A I would rather go off the record with you --

Q All right. But, in other words, a pretty goodly number of investigators, is that correct?

A In excess of 7,000 --

MR. OLSON: In both.

SENATOR HATCH: In both. O.K.

BY SENATOR HATCH:

Q Now, I take it that -- how many supervisors -- now what would be the next position down from you in all of the sections under you? How many sections were there under you, just in Criminal and Intelligence Investigations -- were those the two sections?

A Divisions. Then the next level down would be --

Q And I take it each of those had supervisors and what were those titles?

A Assistant Directors.

Q They were Assistant Directors under you?

A That is correct. Two Assistant Directors reported to me.

Q For the two major divisions?

A That is right.

Q And beneath them, what was the next position down?

A Would be a section and each section is headed by a Section Chief.

Q How many sections did you have in each division?

A In the Criminal Division I had five. In the Intelligence Division, that breakdown is classified. I would be pleased to give that off the record, the number of them.

Q But a number of them?

A A number of them.

Q And then beneath that, what was the category?

A Beneath the section you have a unit, headed by a unit chief.

Q And how many units?

MR. OLSON: Can we concentrate for the purpose of this line of questioning for the Criminal Section since there appears to be some classified information?

SENATOR HATCH: Yes. The reason I am asking this is because I want to establish why it may have been difficult for Mr. Mullen to remember all of these questions that we have asked him.

MR. OLSON: I appreciate that very much and I would --

SENATOR HATCH: And I just feel that if he has a Criminal Division reporting to him plus the Intelligence Division, he can give us as much as he can that is unclassified on the Intelligence Division to show that his job was not some little inconsequential job or that he was just working on the Donovan matter. There has been a lot of criticism of Mr. Mullen and the FBI in the media on this matter and I am not sure if the criticism was justified or not. I think it is important, at least for my ultimate justification, or lack of justification, to find out just what was the breadth of the experience he had to go through during this period and I think that it is important for us to establish how much -- how many people he had, the time he spent, etc. I think this may be helpful to Mr. Mullen.

MR. OLSON: I appreciate that and we are sensitive to your concerns and motivations.

SENATOR HATCH: I think it is important, to the extent that he can give us information -- you don't have to give us any information on the Intelligence Division but I think it is important for you to give us what you can to show that you were a very busy guy, that you didn't sit and dwell on every word and every report that came to you or every time a teletype came out.

MR. OLSON: We will perhaps have the understanding, if it is satisfactory to the Chairman, that he will provide this information in answer to these questions here on the record except to the extent that it may involve classified information.

SENATOR HATCH: That is understood and accepted.

BY SENATOR HATCH:

Q O.K. Now how many units did you have?

A I am not aware of the number of the units. Now we are getting down to the level that --

Q Approximately?

A All told I would guess it would be in the neighborhood of 40 units.

Q In the Criminal or --

A All told.

Q O.K. And these were headed by supervisors, in essence?

A Each one has a Unit Chief. The next level are the Bureau Supervisors working in the various units. Some units will be larger than others, depending on what area of responsibility they are directing.

Q O.K. And then what is the next area, Special Agents?

A Then you go to the field --

Q That is Special Agents in Charge?

A Special Agents in Charge.

Q How many offices?

A We have 59 field offices each headed by a Special Agent.

Q Is that Criminal or Intelligence too?

A Criminal and Intelligence.

Q Well, that is a pretty big organization, right?

A Nineteen thousand employees.

Q But 7,000 agents?

A Eight thousand agents, Senator.

Q So you actually supervised 8,000 agents and all told 19,000 employees.

A Well, that is correct. I indicated my responsibilities were investigative and of the 8,000 agents, 7,000-plus are performing investigative duties.

Q How much time of each day, would you say, if you could estimate for us, you spent on Criminal Division matters and how much time on Intelligence Division matters. These are just estimates, I am sure.

A I have been asked this question before so I can answer that. I would say it would be a 70-30 split, 70 percent Criminal, 30 percent Intelligence.

Q I take it that most of your time each day was reading memoranda and reading documents and reports, letters?

A A lot of my time is involved in reading, extensive reading, and in addition a number of meetings. As an Executive Assistant Director, I also traveled extensively giving speeches, meeting with police officials around the country, visiting various field offices to discuss programs.

Q Did you have a personal staff that worked with you and helped you to do this reading and the correspondence so that you could do some of the speaking and some of the travel and some of the personal meetings that you had to make with some of your leaders?

A I had no personal staff. When Director Webster established the position of Executive Assistant Director, one of the areas he discussed was he did not want us building up large staffs and so my responsibilities are my own.

Q How many secretaries did you have working directly for you?

A One working directly for me. I had access to a second secretary when we had an extensive workload.

Q Now I take it that when reports like the internal memorandum we referred to as Exhibit 13 --

MR. OLSON: Which one is that?

SENATOR HATCH: The January 12, 1981 internal memorandum came to you, about all that you had time to do was to read the report and rely pretty heavily on those that made the reports to you. Is that correct?

THE WITNESS: That is correct, Senator. I --

BY SENATOR HATCH:

Q You didn't have much time for analysis or much time for decision-making on this report, except ultimate decision-making. Is that correct?

A Ultimate decisions are made at my level but an internal memorandum would not get the attention from me as would a document going outside of the Bureau, say, to the Department, to other agencies.

Q So you would rely on those who served below you doing their job and knowing what they were doing?

A I must rely on those working for me.

Q And I take it those like Adamski, Schulte, Monroe and others working below you, they would also in turn rely on the people that work for them?

A The further down you go in the system, the more detailed should be the material available to supervisors and their knowledge of various matters.

If I could mention, Senator Hatch, Director Webster and I have very often discussed my position and those of the other Executive Assistant Directors and my role was more of a strategic role, making policy decisions and major determinations. On occasion significant matters do come up, the murder of Judge Wood in Texas, the murders in Atlanta --

Q A matter like an applicant check, you basically relied on the people who served below you?

A I have very limited involvement in applicant matters. Because of what has transpired in this case, whoever is Assistant Director or Executive Assistant Director, there is an ongoing study now to see if there should be more involvement at higher levels. But applicants would have been one area that receive less attention, depending on the nature of the applicant.

Q Of course, this had to escalate as we got into it --

A It escalated --

Q -- in importance because Mr. Donovan became really the most controversial Cabinet appointee in the Reagan Administration, as I say it, I suppose, as a result of this investigation and as a result of the Committee's work and leading up to confirmation and subsequent.

So did you feel you spent more time on Donovan than you would ordinarily spend on applicant investigations?

A I would have to characterize that as an understatement, about it escalating and me spending more time on it than any other case. But Bureau guidelines at the time in special inquiry cases authorized the Section Chief to sign out the letters to the transition team.

Q How many memos, documents, from people serving under your leadership in the FBI during the time you were Executive Assistant Director would you get, say, on the average, per day, memos, documents, statements, teletypes, letters? How many interruptions a day would you have from agents or from people like Monroe, Schulte, Adamski, etc.?

A I would number the documents I would see on an average day in excess of 100, possibly approaching 200. Interruptions --

Q You could have as many as a hundred, maybe as many as 200, documents, like the internal memorandum of July 12, in one day?

A And sometimes more.

Q And sometimes more.

A And with regard to interruptions, of course it would also vary from day to day. I am sure you face the same difficulty. That would number in the area of 25 to 30. My policy as Executive Assistant Director is I am available at all times, have to be, plus phone calls from SACs on occasion.

(Pause.)

A Senator Hatch, one thing I -- Mr. Olson -- Director Webster may read this testimony. I don't want to leave the impression that I am complaining about my job. I enjoyed it very much.

Q I understand. What I am trying to do is establish that there may be some reason why you are vague on some of these areas, because you have a consummate amount of work and that still doesn't necessarily excuse Mr. Monroe, Mr. Adamski and others, who were working with you, and I think it is only fair to say that because they had to be more specifically involved in this.

But, you know, I get memoranda coming out of my ears here in the Senate and it is hard for me to remember every detail and yet everything I do is important, at least in the eyes of some people.

So I understand, and I am just trying to make it clear that I do understand that -- you know, you naturally have some difficulties. I think there are some things in your testimony that, you know, leave a lot of questions in my mind and leave a lot to be desired, in all honesty. What I am trying to do is at least establish some reason why that is so.

A We did the best we could. In speaking for these other agents, they were involved in many ongoing cases. As we look back at the difficulties we have encountered over the past few years, the successes, such as organized crime convictions around the country -- we have never had a better record than we have at this time, the murder of Judge Wood solved, the Atlanta murders, other cases of national significance. I think we have to consider they have many, many duties, not only me but these agents also and they performed well.

Q Any other questions from any of the other staff members who are here?

Now again, let's state for the record, this is not a hearing. This is a taking of a sworn statement under oath which we have agreed to do with the Justice Department and we have agreed to do it, the earliest I have submitted, as has Senator Kennedy, that this be done privately with only staff or Senators present, with appropriate people from the Justice Department or the FBI present as well.

MR. OLSON: Senator, it was my understanding that this was a hearing of the Committee.

SENATOR HATCH: This is not a hearing of the Committee.

MR. OLSON: Then we may need to discuss that more but there is no need to do it on the record.

SENATOR HATCH: But, no, it is -- that is the understanding. But we have followed Committee processes and rules, and we feel like we want to compliment you, Mr. Mullen, for your cooperation. This has been a painful experience for you and has taken a lot of your time and time that you need to spend down there at the FBI and we appreciate the cooperation you have given to us. We may still have to recall you back after we take the sworn statements of the remaining people. So we will reserve the right to do that. I don't think we will but we still reserve the right to do so.

Is that O.K.?

MR. OLSON: May we respond to that if that becomes necessary?

SENATOR HATCH: Sure. But we are reserving as a Committee our right to do so. Of course, you can respond to it.

O.K. Is Mr. Adamski -- O.K.

THE WITNESS: Thank you, Senator.

MR. OLSON: May we take a short break and I need about 10 minutes with Mr. Adamski. May I inquire as to how long you will go this morning?

SENATOR HATCH: I will probably go for another two hours, until about 11:00.

MR. OLSON: I hadn't been aware that we were going to go that long this morning but we will be here.

SENATOR HATCH: If you have any difficulty, just let us know. We will accommodate you. You have been very accommodating to us.

MR. OLSON: Thank you, Senator.

(Whereupon, at 9:08 a.m., the sworn record was concluded.)

SENATOR HATCH: Let's identify everybody in attendance. Shall we start with you, Walter?

MR. SHERIDAN: Walter Sheridan, Senator Kennedy.

MS. HOWLAND: Diann Howland, Senator Quayle.

MR. MINTZ: John A. Mintz, General Counsel, FBI.

MR. O'BRIEN: J. Kevin O'Brien, Office of Congressional Affairs, FBI.

MR. MARSHALL: Bob Marshall, Senator Denton.

MR. LISKER: Joel Lisker, Senator Denton.

MS. EGBERT: Carol Egbert, Senator Hatch.

MS. MULKEY: Barbara Mulkey.

MR. PARRY: Tom Parry, Senator Hatch.

MR. FLANNERY: John Flannery, Senator Hatch.

MR. OLSON: Theodore Olson, Assistant Attorney General, Department of Justice.

SENATOR HATCH: Mr. Adamski, would you please rise and be sworn in?

Whereupon,

ANTHONY ADAMSKI, JR.

was called as a witness and, having been first duly sworn by Senator Hatch, was examined and testified as follows:

BY SENATOR HATCH:

Q Please state your name and spell it for the record.

A Anthony Adamski, A-d-a-m-s-k-i, Jr.

Q Youare employed at the FBI?

A I am, Senator.

Q What is your capacity?

A I am a Unit Chief.

Q What was your capacity in December 1980?

A I was the Unit Chief.

Q So you have remained a Unit Chief throughout all of this Donovan period?

A That is correct.

Q And as Unit Chief, what are your responsibilities?

A To direct the operations of the unit, to supervise FBI headquarters' supervisors.

Q What unit are you Unit Chief over?

A Right now I am the Unit Chief of the Financial Crimes Unit.

Q And back in 1980?

A I was the Unit Chief of the Special Inquiry Unit.

Q Did you handle the Special Inquiry Unit, the SPIN Unit, throughout all of the Donovan time up through June of 1982, or when did you go off of that?

A I believe that I left the SPIN Unit in mid May. I am not quite sure of that.

Q 1982?

A Of 1982, yes.

Q Okay.

Now, as Unit Chief, what were your responsibilities?

A To direct the investigations of the matters under my supervision, supervision of the supervisors I have.

Q Is your present position in any sense less preferred than the position you held in December of 1980?

A No, sir.

Q Have you been disciplined in any way as a result of your role in the applicant investigation of Raymond J. Donovan?

A No, sir.

Q Have you received any written or oral notifications critical of your conduct of the applicant investigation of Labor Secretary Raymond J. Donovan?

A No, sir.

Q Let me direct your attention to Exhibit 1, which is the Committee resolution, and Exhibit 2, the Committee rules of our Senate Labor and Human Resources Committee.

Are you familiar with those?

A No, sir.

Q Let me direct your attention to Exhibit No. 5. This is Executive Order 10450.

Now, is that the order on which you conducted the applicant investigation of Raymond Donovan for then President-elect Reagan, if you know?

A Senator, Executive Order 10450 is the general guidelines for the conduct of applicant investigations in the Federal Government. This particular copy of 10450, I believe, has been amended several times but it is still the basis for those investigations.

Q We will make copies of Exhibits 1 and 2. In fact, we will give those to you so you can study those and be aware of those, if you will.

MR. OLSON: Do you want him to do that now?

SENATOR HATCH: No.

BY SENATOR HATCH:

Q In December 1980, who were your supervisors by name and title?

A My immediate supervisor was Joseph Schulte, Jr., I believe. He was Section Chief. I had the -- the Assistant Director was Oliver B. Revell for a period, and then there was Charles P. Monroe for a subsequent period, both during my tenure as the Unit Chief in the SPIN Unit.

Q And then the next one up in line would have been Mr. Mullen?

A Yes, the next one up in line would have been Mr. Mullen.

Q Okay.

In December 1980, who were your subordinates by names and titles?

A My agent staff was Michael L. Drake, Joseph Smith, Ernest F. Johnson, Bernard C. Lang, Paul Lorenzetti, L-o-r-e-n-z-e-t-t-i, Charles Coulitre, C-o-u-l-i-t-r-e. In addition, I had four analysts and seven support personnel.

Q Did you have a person named Domzalski working for you?

A Joe Domzalski was, I am sorry, my counterpart and, I guess, could be considered a superior. He was the Assistant Section Chief subordinate to Joseph P. Schulte.

Q Prior to December 1980, had you had any prior experience with the applicant investigation of a Cabinet nominee?

A I may during the course of my days as an investigator have investigated one. I don't specifically recall it though.

Q Had you had any criminal investigative experience? If so, what and when?

A The majority of my career with the FBI has been in criminal investigations. For the most part, it has been in bank robbery. For a period it has been in organized crime, fugitives; I have investigated, supervised in the field, agents in white collar crimes, the whole gamut of our investigative areas.

Q And you indicated you have had prior experience with organized crime aorganizations.

Could you tell us which organizations?

MR. OLSON: Which investigations or --

SENATOR HATCH: Is there more than one organization?

MR. OLSON: You are talking about within the FBI?

SENATOR HATCH: No. Organized crime.

BY SENATOR HATCH:

Q You are talking about the La Cosa Nostra or what are you talking about?

A No, I am not. The place that I was involved with the organized crime investigations was in Louisville, Kentucky, and they don't have a La Cosa Nostra family.

Q In that area?

A To our knowledge anyway, Senator.

Q I hope they don't seize this as an opportunity to go in.

Now, describe what you consider to be a name check, in this case the name check of Mr. Donovan, and prior to nomination, what does it consist of?

A Well, as I understand it, a name check is a review of our headquarters' files concerning the individual and the furnishing of that material in whatever form is suitable or legal to the requester.

Q On or about December 3, 1980, did you forward a list of more than 60 names, including Raymond Donovan, received from the Transition Team for a name check? Now, I am referring to the Dean memorandum, dated December 3, 1980, which refers to this name check.

MR. OLSON: Is that a specific exhibit?

SENATOR HATCH: Let's mark it as Exhibit No. 36.

(Exhibit No. 36 was marked for identification.)

THE WITNESS: Senator, I recognize what appears to be here a redacted version of a list I believe I received from the White House -- or from the Office of the President-elect at that time. I did not create the transmittal document, but I did receive the list and I did in fact transmit the list.

BY SENATOR HATCH:

Q Who on the Transition Team for the White House transmitted these names?

A I received a list from Fred Fielding.

Q Did you have any conversation with any representative from the Transition Team about this list?

MR. OLSON: Prior to at the time of the transmission?

SENATOR HATCH: At any time.

THE WITNESS: At that point in time, I was discussing anything to do with the transition with Mr. Fielding. I don't recall any other conversations, although I may have had some conversations with his security assistant, Ms. Jane Dannenhauer. But that would have been mechanical.

BY SENATOR HATCH:

Q How do you spell her name?

EXHIBIT NO. 36

Mr. Finzel 12-3-80

[illegible] Dean

NAME CHECK ASSISTANCE TO
PRESIDENT-ELECT REAGAN'S
TRANSITION TEAM

PURPOSE: To advise of additional name check requests received directly through President-Elect Reagan's Transition Team via SA Anthony Adamski, Special Inquiry Matters Unit, Criminal Investigative Division.

RECOMMENDATION: None, for information.

DETAILS: On 12-2-80 at approximately 12:00 p.m., a list of names was received from SA Anthony Adamski of the Special Inquiry Matters Unit, Criminal Investigative Division, who in turn received this list from Fred Fielding of President-Elect Reagan's Transition Team. This list contained the names of 97 individuals, four of which were listed twice for a net of 93 names. The majority of these names were accompanied by a date of birth. However, in some instances, only the year of birth was provided. Only six of these names included a place of birth. SA Adamski advised the list was of individuals being considered for high-level cabinet positions. Insofar as could reasonably be done, further identifying information was obtained through other sources, such as Who's Who in America. For example, in those instances where a complete name and date of birth was

1 - Mr. Finzel
1 - Mr. Revell
(Attn: SA Anthony Adamski)
1 - Mr. Dean
1 - Mr. [illegible]
① - Mr. Sutton

[illegible]
(6)

provided, if the same name and date of birth ~~was~~ are found in Who's Who, the place of birth contained therein was used in our search of Bureau indices. Our responses to these name check requests will, of course, be appropriately phrased to clearly indicate the basis on which the identification was made. In those instances where it is not possible to reasonably develop sufficient identifying information to conduct an intelligent search of our files, the names will be returned to the Transition Team with a request that additional information be supplied. This situation was discussed with SA Adamski who has advised that Mr. Fielding is aware of our requirements in this regard and fully understands our position.

SA Adamski further advised that although there was no time limit imposed upon the Bureau regarding completion of these name check requests, they were nevertheless on an expedite basis. Any positive information will be disseminated to the Transition Team through SA Adamski.

SA C Kenneth Arnold,
Ident Division advised
and in process of checking
63 names through ident. 12/2/80.

Birth

Place of Birth

Original

8/31/30 Raymond J. Donovan Bayonne, NJ

/ Raymond J. Donovan.

A D-a-n-n-e-n-h-a-u-e-r.

Q Who advised you that the list of more than 60 names included "individuals being considered for high level officials"?

A Mr. Fielding.

Q Was the name check made for the position of Secretary of Labor or anyone else and, if so, by whom?

A At that point in time, we did not know what position, what positions the individuals were being considered for. We simply had a list of names with some identifying data, and we conducted name checks on those names where possible.

Q When was that name check made or when were they made?

A In the beginning of December, I believe, but I don't recall the exact date.

Q What is the basis of that information? Is it through conversation or how and with whom?

A I am sorry, Senator, I don't understand the question.

Q Well, the information on the name checks.

MR. OLSON: I don't understand the question either.

SENATOR HATCH: Let me move on.

BY SENATOR HATCH:

Q How long does a name check normally take, a day or two?

A When they come in volume, I don't know, Senator. If it was a single name check, I would presume a day.

Q Did you tell any member of the Transition Team how long it would take to get the name checks done?

A No, I did not.

Q Wasn't the name check of Donovan timely concluded as of December 12th -- 5th, 1980?

A I don't know that. It may be.

SENATOR HATCH: Let me mark as Exhibit 37 the Donovan name check which, as I recall it, is stamped December 5, 1980 -- it should be December 4, 1980 -- and December 5.

(Exhibit No. 37 was marked for identification.)

BY SENATOR HATCH:

Q Could you take a look at that and tell us is this the result of a name check?

A That is the result of a negative name check.

Q That would be Exhibit No. 37.

Did the name check of Donovan conclude that there was no record identifiable with the subject of the name check request?

A In the central files of the FBI.

Q Okay.

THE FOLLOWING INFORMATION IS REQUIRED FOR A SECURITY NAME CHECK:

DEC 04 1980 Ex 37 [illegible] 8/18/80 335

FULL NAME: Donovan Raymond J.
Last First Middle

OTHER NAMES USED:

DATE OF BIRTH: 1930 Aug. 31
Year Month Day

PLACE OF BIRTH: BAYONNE N.J.
City State

SOCIAL SECURITY NUMBER:

CURRENT HOME ADDRESS: 54 MERRYWOOD LANE
Number and Street
SHORT HILLS NJ
City State Zip Code

PREVIOUS ADDRESS:
Number and Street
City State Zip Code

CURRENTLY EMPLOYED BY THE FEDERAL GOVERNMENT:
AGENCY:
LOCATION:

FEDERAL EMPLOYMENT IN PAST FIVE (5) YEARS:
AGENCY:
LOCATION:

EXHIBIT NO. 37

THE CENTRAL FILES OF THE FBI CONTAIN NO RECORD IDENTIFIABLE WITH THE SUBJECT OF THIS NAME CHECK REQUEST.

Files of the Identification Division of the FBI contain no arrest record identifiable with the subject of this request based on data submitted.

DEC 5 1980

Now, on or about December 5, 1980, did you become aware of any allegations or even rumors that Mr. Donovan may have had any association or even ever met with any organized crime figures?

A What date was that, Senator?

Q December 5th.

A I don't think so.

Q Okay.

How did you -- well -- did you know of the meeting between Director Webster and Mr. Meese on December 5, 1980?

A I did not at the time.

Q When did you become aware of that meeting?

A I am not sure specifically. But it would be at least a week after it.

Q Did anyone discuss that meeting with you and, if so, who and when? You say about a week after.

A I certainly didn't discuss the meeting with Director Webster or he with me. My recollection of that is that Joe Schulte, my immediate -- my supervisor, mentioned to me that the Director had met with Mr. Meese.

Q How did Joe Schulte learn, do you know -- if you know?

A I don't really know but I presume he learned that from Mr. Revell.

Q What is the normal course when information like that comes down from the Director?

A I am sorry, Senator?

Q What is the normal course when information like that comes down from the Director, in December of 1980, if we put it in a time frame?

A In this particular situation, it was simply the information that the Director had spoken to Mr. Meese. There was no specifically normal course.

Q What would be the normal chain of command? Would they tell the Director and he would tell Mullen and right on down the line --

MR. OLSON: You are asking for --

SENATOR HATCH: If he knows.

MR. OLSON: You are asking him to characterize the normal --

SENATOR HATCH: Yes, if there is a normal --

MR. OLSON: This type of information?

SENATOR HATCH: Yes, if there is a normal.

THE WITNESS: There really isn't a normal with this type of information. It could come directly from the Director to Mr. Revell. It could come through Mr. Mullen.

BY SENATOR HATCH:

Q It could come through anybody?

A It could come through anybody.

Q When did you learn that the question of organized crimewas raised concerning Mr. Donovan during that meeting?

A At the time I don't think that I did know that the question of organized crime was raised during that meeting.

Q Were you aware -- when did you become aware that it was raised?

A I had an indication that it might have been raised when I was directed to conduct an OCIS check which is our Organized Crime Information System concerning Raymond Donovan.

Q Who ordered you to do that?

A Joe Schulte.

Q Any particular reason why he did that?

A I think because he was told to by Buck Revell, Oliver B. Revell.

Q As a result of the conversation with Mr. Meese, between the Director and Mr. Meese or --

A I don't know that.

Q Do you know if he was told anything else besides that?

MR. OLSON: Who was told?

BY SENATOR HATCH:

Q Were you told anything besides check OCIS?

A No.

Q Were you aware that a decision was reached at the meeting between Mr. Meese and Director Webster that Director Webster would check with Mr. Meese before initiating a full field investigation if any organized crime connections were found?

A No, I did not know that.

Q What did happen as a result of your OSIS check?

A We determined that there was nothing in OCIS concerning Mr. Donovan.

Q I see. Did you check any other source of information pertaining to Mr. Donovan?

A At that time?

Q At that time.

A Not at that time.

Q You did later?

A We did later.

Q And then you did find that there were some problems?

A Yes, we did.

Q When you -- when was the first check done with OCIS?

MR. OLSON: Excuse me, Senator.

(Pause.)

SENATOR HATCH: Read back that last question, please.

(The pending question, as recorded, was read by the Reporter.)

THE WITNESS: I don't recall, Senator.

BY SENATOR HATCH:

Q Did you check just Donovan's name through OCIS or did you check Donovan, Schiavone --

A It is my recollection that we just checked Mr. Donovan's name.

Q Do you know which month you made that check with OCIS? Was that December?

A No, I don't think it would have been December, sir. I think it would have been January.

Q In December 1980, what constituted the full field investigation?

A Full field investigation in December of 1980 was a Headquarters' indices check, pertinent field offices' indices check, an attempt to verify birth, education, occupation, relatives of the nominee or appointee from the age of approximately 16, to interview 30 to 35 associates and co-workers, to check logical police records. That was the scope.

Q Did the SPIN Unit ever conduct a full field investigation with regard to Mr. Donovan prior to his nomination and, if so, under what circumstances?

MR. OLSON: When you say prior to the nomination --

SENATOR HATCH: Prior to the actual nomination.

MR. OLSON: January 20?

SENATOR HATCH: No, prior to the nomination which was made when, December 16.

MR. OLSON: The announcement of the intention to nominate was made on that date. Maybe I am being over-technical.

SENATOR HATCH: On which date?

MR. OLSON: I think there was, in December 1980, there was an announcement of an intention to nominate and the formal nomination papers were sent.

BY SENATOR HATCH:

Q Well, let us say prior to January 1. Did you conduct a full field investigation?

A Prior to January 1, no.

Q O.K. Now did you have any information direct or indirect that a full field investigation was considered prior to January 1, 1981?

A Prior to January 1, 1981?

Q Yes.

A I believe we received the request for Mr. Donovan's investigation on December 30, 1980.

Q How about prior to December 16, were you aware of any request for a full investigation?

A No, I was not.

Q When, if at all, did you first see the Director's handwritten notes of the December 5 meeting with Mr. Meese?

A One or two months ago.

Q I see. It was up until then.

How did you come to see those notes at that late date?

A As part of an internal inquiry and in the preparation of some briefing books.

Q What briefing books were these?

A Briefing books for the Director.

Q I see. This is part of an internal special inquiry on the whole Donovan matter?

A An internal inquiry.

Q That is what I said, an internal inquiry --

A But it is not a special inquiry --

Q Well, an internal inquiry on the whole Donovan matter. Is that right?

A That is correct.

Q What was the purpose of that inquiry? Was this before or after the special prosecutor's report came down?

A There has been an ongoing internal inquiry for a long period of time to determine what in fact happened in the Donovan investigation and what things could or should be changed in future SPIN investigations. Part of that inquiry was completed prior to the special prosecutor's report. The other part still goes on to streamline SPIN operations.

Q In other words, this is the Director's attempt to try to make sure that these investigations go better in the future, I take it?

MR. OLSON: Excuse me. Are you asking him to characterize what motivates the Director with respect to what is ongoing?

SENATOR HATCH: If he knows.

THE WITNESS: What we are trying to do is to plug any holes in any future investigations.

Q Have you seen any report or reports with conclusions from the inquiry?

A Have I, sir? No.

Q Have you participated in preparing the report?

A In certain facets of it, yes.

Q Both the one prior to the Special Prosecutor's Report and the one subsequent?

A Yes.

Q Okay. Now, did you ask to see the Director's handwritten notes of the December 5th, 1980 meeting with Mr. Meese, or how did you come to see those notes?

A It is my recollection it was accidental; it was just in some papers that I was reviewing as part of this internal inquiry.

Q Director Webster's notes indicate that Mr. Monroe was designated as the direct contact with Mr. James Baker, down at the White House, for White House appointments. Was Mr. Monroe so designated? This is Exhibit Number 6.

A Senator, I have no direct knowledge of it, but that's what this says.

Q Okay. What position did Mr. Monroe hold in December of 1980?

A I believe he was Deputy Assistant Director in Division 6, the Criminal Investigative Division of the FBI.

Q That would be directly under Mullen, then?

A That would have been directly under Mr. Revell at the time.

Q I see. Did his position that he held in December 1980 change in January of 1981?

A I don't know the date that it changed or the month, but it did change.

Q Did Mr. Monroe act as a contact in relation to Mr. Donovan's nomination, and if so, in what way?

A I don't know what roles Mr. Monroe played in his contacts with the White House.

Q Were you chosen at all as a direct contact with the White House, or did you fulfill a role as a contact at all?

A In my position --

MR. OLSON: When you use the term, "White House" --

SENATOR HATCH: Well, the transition.

THE WITNESS: In my position as Unit Chief of the Special Inquiry Unit, I established liaison with Mr. Fielding, who was then designated Conflict of Interest Counsel to the office of the President-elect, and we had direct contact.

BY SENATOR HATCH:

Q Did you discuss this with Mr. Monroe or Mr. Mullen?

MR. OLSON: Discuss what, Senator?

BY SENATOR HATCH:

Q Your being a contact.

A I believe that came about in a meeting between myself, Mr. Fielding and Mr. Monroe -- or, I am sorry -- Mr. Revell, and I think that may have been established at a meeting at which I was not present, between Mr. Revell, Mr. Fielding and Judge Webster.

Q I see. Do you know why Mr. Meese was concerned about Mr. Donovan's organized crime connections?

A No, sir. I didn't know that he was.

Q Following the December 5th, 1980 meeting, were all the field office indices and records checked?

MR. OLSON: With respect to Mr. Donovan?

SENATOR HATCH: Right.

BY SENATOR HATCH:

Q For instance, let me give you some help. Director Webster's memorandum of December 15th, 1980, which is Exhibit 3, says that, "all field offices" were checked.

MR. OLSON: May we have the --

SENATOR HATCH: (Handing document to Mr. Olson.) We need that one back.

THE WITNESS: (Perusing document.) On this date, they had not been.

BY SENATOR HATCH:

Q Okay. Which ones were checked on that date?

A I don't recall specifically, but they would have been the field offices that covered Mr. Donovan's residence, employment, birth, relatives, past residences.

Q What indices does a field office maintain?

A I'm sorry, Senator?

Q What indices does a field office maintain?

A A field office maintains a record of names, institutions, numbers that are considered by that field office to be pertinent and should be retained for retrieval at some subsequent date.

Q And they maintain that in alphabetical order, these indices?

A Some are maintained alphabetically, some are maintained numerically.

Q Didn't the name search include at least the name of Donovan and his company, Schiavone Construction Company?

A Yes, it did.

Q Okay. Now, when you indicated that you know that all field offices were not checked at that time, but some were, what is the basis of your knowledge?

A At that time, it was not a standard practice to check all field office indices.

Q But only those that were pertinent --

A That's correct.

Q -- or at least, thought to be pertinent at the time?

A That's correct.

Q Was this a deviation from the practice of checking all field offices, just to check the ones where he lived and where he worked?

MR. OLSON: I do not understand the question.

BY SENATOR HATCH:

Q Is that a deviation from the FBI practice, to just check those field offices in, I take it, the New York-New Jersey area?

MR. OLSON: The witness just testified that it was not the standard procedure to check all field offices, and --

SENATOR HATCH: Oh, it was not. Okay.

BY SENATOR HATCH:

Q Now, would you describe for us the Organized Crime Information System, who established it, what year was data first entered; is there someone who decides what goes into the system; who is that person, et cetera?

A I don't have any of that information, Senator.

Q You don't know anything about that?

A No. I'm just the user.

Q You are what?

A I am just a user of the system.

Q Oh, you just use it. Is the information stored in the OCIS system on tape, discs, IBM cards, or --

A I don't know.

Q You don't know. What is the format of the record maintained in OCIS?

MR. OLSON: What do you mean by "format", Senator?

SENATOR HATCH: Well, a computer record, it seems to me, may contain hundreds of characters. The format is how the information is arranged in a single record. Each record would have to have some format or arrangement. I would think ordinarily it would have the same format or arrangement; otherwise the data would become irretrievable.

THE WITNESS: I don't know whether or not this is standard practice, but on the OCIS checks that I have received a positive result from, the --

BY SENATOR HATCH:

Q By "positive", that means some information back?

A -- some information back -- the information comes on computer paper, which contains name, aliases, descriptive data, vehicles, associates, prior FBI investigations.

Q Originating field office, I take it?

A Originating field offices; Bureau file numbers and field office file numbers.

Q Okay. I take it what you do is you just go and ask the computer people, "Please get me any information on this," and it is up to them to get it; is that right?

A That's correct.

Q You don't personally operate the computer at all?

A No.

Q When you fill out a research request, do you designate the system you want to search -- OCIS, ISIS, ELSUR?

A Generally speaking, that's the responsibility of the case supervisor --

Q He will tell you what system to go to, in other words?

A We have standard procedures for which systems ought to be checked, and he initiates that.

Q Has this basic method of entering or retaining the data changed from when the system was first established; in other words, has this format changed that you described earlier -- if you know?

A I don't know that.

Q Okay. Now, you indicated there are standard procedures for OCIS as to how and when it is used. Can you tell us what those procedures are?

A No, Senator. What I think I said was there are standard procedures as to which systems will be checked. There are no standard procedures for checking OCIS. And the standard for checking an OCIS -- for making an OCIS check -- is whether or not it is indicated by virtue of the background or by virtue of information developed.

Q Let me ask you this. On a Cabinet nominee, would you normally check on OCIS?

A No, sir.

Q Has there been a report generated that relates to the HOPEX investigation or the Tumcon investigation or the Masselli investigation, or all of them, from OSIS?

MR. OLSON: I didn't hear the first part of your question.

BY SENATOR HATCH:

Q Has there been a report generated that relates to the HOPEX investigation or the Tumcon investigation or the Masselli investigation, any or all of them?

MR. OLSON: Relative to Mr. Donovan?

SENATOR HATCH: No; just period.

THE WITNESS: I don't know, Senator.

BY SENATOR HATCH:

Q You don't know. Who may use this OCIS system -- any agent? Under what circumstances may you use it, and are they ordinarily used in a SPIN investigation?

A Any agent in any field office can request an inquiry of OCIS.

Q I see. Now, before the Donovan investigation, do you know if OCIS was ever consulted with regard to an applicant investigation?

A No, I don't.

SENATOR HATCH: Is that something you can find out for us, Ted?

MR. OLSON: I'm not even sure if it would be possible to find that out without a great deal of effort. I guess we could respond to your inquiry.

SENATOR HATCH: Why don't you respond to us and see. If it is too much effort, I'll understand.

MR. OLSON: And there may not be any records kept of it. But we will respond in some way.

SENATOR HATCH: Okay. I would think you could interview the various supervisors and just see if they have ever done one before for an applicant investigation, and when and how.

MR. OLSON: Well, we'll respond. I am not sure whether that would produce an answer to the question. I'm not sure how much time that would take. I don't know where the supervisors are.

SENATOR HATCH: Okay, whatever.

BY SENATOR HATCH:

Q Let's go to the ISIS system. What is the ISIS system?

A As I understand it, that is for our special cases, or major cases; it computerizes a single case.

Q Who established it?

A I have no idea.

Q What year, if you know, was the data first entered in ISIS?

A I have no idea, Senator.

Q Is there someone who decides what goes into ISIS?

A I would imagine that the office of origin case supervisor and case agent would make that decision.

Q Do you know how the information enters the system --

A No, sir, I don't.

Q -- from the terminals to the cards, or otherwise. You don't know?

A (Conferring with Counsel.) I am sorry, I am over here. No, I don't know, Senator.

Q Do you know what the format of a record maintained in ISIS is? Is it similar to the one you discussed in OCIS?

A To the best of my recollection, I have not seen an ISIS print-out.

Q Do you know if the basic method of entering or retaining the data in ISIS has changed from when the system was first established, or is it basically the same?

A I don't know, Senator.

Q Are there computer programs that generate periodic reports or summaries with regard to ISIS, or you just don't know?

A I don't know that, either.

Q I take it you don't know, really, anything about ISIS?

A Not really. I am just a user again, sir.

Q Would you know whether there has been a report generated that relates to the HOFEX investigation or the Tumcon investigation or the Massolli investigation?

A No, I don't.

Q Okay. Who can use this ISIS system?

A I believe it can be accessed by any agent in the field or at headquarters.

Q Is the ISIS system ordinarily used in a SPIN investigation?

A Not to my knowledge.

Q And before the Donovan investigation, was ISIS ever consulted in an applicant investigation, if you know?

A Not to my knowledge.

Q Could you check that also, if it is possible?

MR. OLSON: We will respond.

SENATOR HATCH: That's what I mean.

BY SENATOR HATCH:

Q Are there standard programs that permit one to search ISIS?

A I don't know, Senator.

Q You have seen ISIS information come out, haven't you?

A No, I have not, Senator.

Q You have not seen any come out of the computer?

A Not to the best of my recollection.

Q You have never reviewed any ISIS information?

A Not to the best of my recollection.

Q Okay. Do you know if the information that comes out of ISIS is any different from that which comes out from OCIS; have you heard or had any explanations that it may be different?

A No, I don't, Senator.

Q What is the Electronic Surveillance Index System, ELSUR?

A What is it?

Q Yes.

A It is an indices that maintains records of names of persons overheard, participating in and, in some cases, mentioned during Title III court-authorized interceptions.

Q In what year, if you know, was the information first put into the ELSUR system, and who did it?

A I don't know that, Senator.

Q You don't know that. Do you know of anyone who decides what goes into that system?

A I believe that goes down to the case agent in the field.

Q I take it you don't know how the information is entered into the system any more than you do on the others -- is that terminal cards, or --

A I don't believe that's an automated system, Senator. I believe that that is a manual system.

Q How is the information stored, then? Is it just in files?

A In files -- in cards, a card index system.

Q Now, you indicated that the ELSUR system contains information regarding overhears.

A That is correct.

Q Do you know how that information is stored regarding, say, a Title III overhear and how often it is stored?

A I believe under current rules, that the determination to put an overhear into the ELSUR index is the determination of the case agent. It is mandatory to put the names of participants into the system.

Q Has the basic method of entering or retaining the data changed from when the system was first established, or is it still basically the same filing system?

A I can't speak with authority, but I believe that it's the same.

Q Are there any computer programs involving ELSUR which generate periodic reports and summaries?

A I do not know, Senator.

Q Are there any reports, general or otherwise, that are generated from that system -- reports or summaries?

A I don't know, Senator.

Q Okay. Has there been a report generated that relates to the HOFEX investigation or the Tumcon investigation or the

Masselli investigation in the ELSUR system?

A I don't know, Senator.

Q You don't know.

Who may use the ELSUR system?

A Any agent in the field or at headquarters.

Q Where is the ELSUR system maintained? Is it physically maintained at headquarters, or is it maintained in the field, as well?

A It is maintained in the field for that particular field office; it is maintained at headquarters for all field offices.

Q Now, are ELSUR files ordinarily used in a SPIN investigation?

A Not ordinarily.

Q Before the Donovan investigation, do you know if any ELSUR consultations were made on any applicant investigation?

A I don't know for a fact, but I think there would have been.

Q Okay. Can you check that, or at least, give us a report on that?

MR. OLSON: Yes.

SENATOR HATCH: You will, okay.

BY SENATOR HATCH:

Q Are there standard programs that permit one to search

ELSUR?

A ELSUR, as I said, is a manual system, so you just find the card.

Q Can you help us to understand how it is organized? It is organized alphabetically, by case name, by case number, or how is it organized?

A It is at least organized alphabetically. It is probably organized at headquarters by field office. It can be also organized numerically, to capture telephone numbers. There may be some additional criteria that I am not aware of.

Q Do you know if there were any other computer systems in operation in December 1980 other than what we have mentioned?

A No, sir, I don't.

Q Now, in December 1980, you have indicated you are not sure whether the HOFEX investigation was on file on OCIS, ISIS, or ELSUR?

A That is correct.

Q What is the HOFEX investigation?

A To the best of my knowledge, it is the investigation into the disappearance of Jimmy Hoffa.

Q And in connection with the HOFEX investigation, were there references to Schiavone or any SCC -- Schiavone Construction Company -- executive, including Donovan, on any of these three systems, OCIS, ISIS, or ELSUR?

A With regard to Schiavone, and with regard to Mr. Donovan, there were no references to my knowledge; specifically, with regard to Mr. Donovan, there were no references. With regard to employees of Schiavone, I have no way of knowing.

Q In December 1980, was the Jopel-Masselli investigation or the Tumcon investigation on file on OCIS, ISIS, or ELSUR, if you know?

A I believe Tumcon was on file in OCIS; I do not know if it was on the other two indexes.

Q How about Jopel-Masselli?

A I believe Masselli was in, but I don't know about Jopel, specifically.

Q In connection with this investigation of Masselli, were there any references to Schiavone or any SCC executive, including Donovan, on OCIS, ISIS, or ELSUR?

A No, there were not -- well, let me rephrase that. With regard to Mr. Donovan, there were not.

Q Okay. Was there any mention of Schiavone or any SCC executive, including Donovan, on these three systems, OCIS, ISIS, or ELSUR?

A I don't know.

Q Was a search of any of these systems made in December 1980, regarding the Donovan applicant?

A As far as I know, the search of those systems was done in January of 1981.

Q Now, as I recall, we had one letter or exhibit which indicated that Revell did do a search in December of 1980; do you recall that?

MR. OLSON: You may be referring, Mr. Chairman, to the December 15th memorandum, which is marked as Exhibit 3, I believe. That is the only document that comes to my mind.

SENATOR HATCH: NO. I am referring to your letter from the Department of Justice, from Bob McConnell, stamp-dated 17 August, 1982, where in response to my Question 5, "Did Mr. Revell check the OCIS regarding Mr. Donovan?"

"Answer: Yes, in December 1980; nothing was found."

MR. OLSON: May I have --

SENATOR HATCH: (Handing document.) Right there, Number 5.

MR. OLSON: May I have a moment?

SENATOR HATCH: Sure.

MR. OLSON: (Conferring with Mr. Adamski.)

The witness has had his recollection refreshed.

THE WITNESS: I am sorry, Senator. The confusion there is the request for the investigation at the end of December, but there was an OCIS check done at the beginning of December, December 8th, I believe.

BY SENATOR HATCH:

Q In December 1980, wasn't there a Grand Jury investigation in the Eastern District of New York involving the Schiavone Company?

A I don't know that to be fact, Senator.

Q Do you know that a facet of that investigation involved a demand by Harry Gross, of Teamsters' Local 282, that his chauffeur be placed on the Schiavone payroll as a "no-show" employee? Do you know that?

A I'm familiar with those facts.

Q Did you know that Schiavone Company officials and records have been subpoenaed by the Grand Jury?

A I was also familiar with those facts.

Q Didn't that investigation include at least references to Schiavone in the New York field office indices?

A I would think they would, yes.

Q If you were aware of the investigation in December '80, did you inform anyone -- either Mr. Monroe, Mr. Schulte, or Mr. Mullen, the director in the field, the Department of Justice, anybody else, of these matters?

A Well, it is my recollection that the Department of Justice had its own independent information on the investigation. In December of 1980, we would not have caused a field office indices check to be made until the special inquiry case began, and initially, there was no reason, according to established practice at that point in time, to involve the New York office, because Mr. Donovan did not reside, work, have relatives, or be born there.

Q Are there any internal memoranda about these matters, or any discussion of them -- about the investigation in December 1980, Harry Gross, an OSHA employee matter?

A I am sure there must have been. I am not sure I was aware of them.

Q Now, were you aware that Schiavone had a large, government-funded project in New York at the time?

MR. OLSON: Was he aware in December of 1980?

SENATOR HATCH: December of 1980.

THE WITNESS: No, sir.

BY SENATOR HATCH:

Q In December 1980, wasn't there a Grand Jury investigation in the Southern District of New York that included references to Mr. Masselli, Jopel, and the Schiavone Company -- if you know?

A I don't know that.

Q Did you know that the investigation was concerned in part with the alleged fraudulent establishment of a Minority Business Enterprise, MBE, by Mr. Masselli, as a subcontractor to the Schiavone Company?

MR. OLSON: Is your question asking for his state of mind in December of 1980?

SENATOR HATCH: Yes.

THE WITNESS: I did not know that at that time.

BY SENATOR HATCH:

Q When did you find that out?

A I believe I first heard about that from Mr. Donovan's testimony before the Committee on January 27th.

Q I see, but you didn't know about it before then?

A No, not the minority business aspect of it.

Q But you knew about the Jopel-Nargi problems, didn't you, before that?

A I am familiar with Jopel, but I'm not familiar with Nargi.

Q Did you know that Mr. Masselli had taken over by force the company of Louis Nargi, a Schiavone subcontractor, with the support of the mob, as of January 27th, 1980?

MR. OLSON: Did he know about this in 1980?

SENATOR HATCH: Yes.

THE WITNESS: No, sir, I did not.

BY SENATOR HATCH:

Q You did not. Weren't those references, at least to Schiavone Construction Company, in the New York field office indices?

A They should have been.

Q But you were unaware of them, personally?

A I was personally unaware of them.

Q Who would have been aware of them, or who should have been aware of them?

MR. OLSON: Which is your question? Who would have been aware of them in December of 1980 --

SENATOR HATCH: Let's change the time frame to up until January 27th, 1981.

MR. OLSON: Who would have been aware of whatever information was in those records?

SENATOR HATCH: Right. Who were, or should have been aware of it.

MR. OLSON: Well, can we take it one part at a time?

SENATOR HATCH: Okay.

THE WITNESS: The New York Division Organized Crime Squad handling that investigation would have been aware of it. I would think that the Organized Crime Section here at FBI Headquarters would have been aware of it.

BY SENATOR HATCH:

Q Who headed that?

A Who headed that?

Q Yes.

A The section chief there is Sean McQueeney. He is under the supervision of the Assistant Director of the Criminal Investigative Division, which was either Mr. Revell or Mr. Monroe, depending on the time frame.

Q So they would have known about it?

A I'm not sure that Mr. Revell or Mr. Monroe would have known about it, but I would think that the Organized Crime Section would know about it.

Q And in New York, who would have known about it, in the New York office?

A I'm sorry, Senator.

Q In New York, you indicated there was a group in New York who would have known about it.

A The squad on which that case was worked would have known about it.

Q What agent was in charge of that?

A I have no idea.

Q Now, I take it in December of 1980, you were not aware of the Jopel-Masselli investigation?

A December of 1980?

Q Right.

A I don't think I became aware of that investigation until January of 1981.

Q Okay. How did you become aware of it then?

A I believe I was advised by our New York Division on or about January 10th, 1981.

Q When did you first learn of the electronic surveillance of Masselli?

A At the same time.

Q Wasn't that electronic surveillance of Masselli also referred to in the New York field office's indices?

A I don't know that it was. It should have been.

Q When did you first learn of the references of Mr. Donovan and other Schiavone officials on those tapes?

A I'm sorry, Senator, I missed the question.

Q When did you first find out about the references to Schiavone and Donovan on those tapes?

MR. OLSON: References or reference?

SENATOR HATCH: Reference -- whatever -- references, because we are mentioning both Schiavone and Donovan.

MR. OLSON: Either or?

SENATOR HATCH: Either or.

THE WITNESS: The reference to Mr. Donovan was on that same date.

BY SENATOR HATCH:

Q For what reason, if you know, did Director Webster travel to New York City on December 10th, 1980?

A I don't know.

Q You did not accompany him?

A I did not.

Q And what was said in the conversation that the Director had with Mr. Mullen on that date, if you know?

A I don't know that he had a conversation.

Q Okay. You did not know of the conversation?

A (Shaking head.)

SENATOR HATCH: The witness indicated "No".

BY SENATOR HATCH:

Q Are there any internal memoranda relating to the Webster-Mullen conversation and/or your knowledge of it?

MR. OLSON: Are you referring to Mr. Donovan?

SENATOR HATCH: I am saying any internal memoranda relating to the Webster-Mullen conversation right up to the day.

MR. OLSON: I think the witness said he didn't know that there was a conversation, or --

SENATOR HATCH: If he didn't, but I'm asking if he knows of any internal memoranda pertaining to the conversation.

THE WITNESS: Not that I recall, Senator.

BY SENATOR HATCH:

Q Now, Director Webster's memo of December 15th, 1980, reflecting that discussion, indicates that he was advised by Mr. Mullen on December 10th, 1980 that all the FBI people had reviewed all of the FBI's indices and checked with all field offices and that nothing had been disclosed.

Now, to your knowledge, were all FBI indices and all field offices checked?

A Not on that date, Senator.

Q Okay. You are saying only the New Jersey field offices were basically checked, right?

A There would have been other field offices. I just don't know which ones. We could find that out for you.

Q Could you give us a description of what records were actually checked as of the end of December 1980?

A I have no specific recollection of that. That, I would have to have a file for.

Q Well, the Director's memorandum also indicated that he had checked with Mr. Revell. What was Mr. Revell's position at the time and his role in the nomination process, and when did he leave that position, and who succeeded him?

A Mr. Revell's position at that time was Assistant Director of the Criminal Investigative Division. I don't know when he left that position. He was succeeded by Charles P. Monroe as Assistant Director.

Q Did Mr. Revell discuss the matter with you at the time?

MR. OLSON: What matter?

SENATOR HATCH: The Director's memorandum..

MR. OLSON: You are referring to Exhibit 3?

SENATOR HATCH: That's right.

THE WITNESS: No.

BY SENATOR HATCH:

Q Did the Director ever discuss the matter with you?

A No, sir.

Q Mr. Mullen or anyone else?

A Not at that time.

Q Okay. When was the first time you were aware of that memorandum, and with whom did you discuss it?

A I think that was within the past several months, also.

Q Was that when the memorandum was brought up to me in the Senate?

A I don't know when it was brought up to you, Senator.

Q But only recently have you become aware of it?

A That's correct.

Q You had never seen it before then?

A No, sir.

Q And you had never heard of it before that?

A No, sir.

Q Have you since heard or learned anything about what was done as a result of that memorandum?

A In what respect, Senator?

Q Any respect.

MR. OLSON: Are you referring to what was done with respect to it in the December --

SENATOR HATCH: Yes. Mullen indicated that he had referred that memorandum down, and I am just wondering what was done with it -- did anybody do any checking on it; did anybody do any further investigation as a result of it; were the facts verified; was there any verification done?

MR. OLSON: You are referring to the December 1980-January 1981 period?

SENATOR HATCH: I'm talking about any time, any time.

MR. OLSON: Well, when you ask questions about what was done with it. We have been talking about it off and on for the last four or five days.

SENATOR HATCH: I'm saying any time since that memorandum came into being, what was done about it.

MR. OLSON: Well, I can answer that in part. We have been talking about it here for the last four or five days. Is your question so broad to include that?

SENATOR HATCH: Yes. I want this witness' testimony, because Mullen said he had referred it down the chain of command. I just want to know if Mr. Adamski knows if anything at all was ever done about this memorandum, in any way, shape, or form, between January 12, 1981 right up until the present time.

MR. OLSON: Well, your question is very vague.

SENATOR HATCH: January 8th. Excuse me. Actually, this memo was December 15th, 1980 -- yes.

BY SENATOR HATCH:

Q So between December 15th, 1980 right up to today, has anything been done about it to your knowledge?

A Not to my knowledge, Senator.

Q You don't know?

A I don't know.

Q Do you recall advising any members of the Department of Labor staff that the delay on the Donovan name check did not mean "anything dire"?

MR. OLSON: What are you pointing to?

(Exhibit Number 38 was marked for identification.)

BY SENATOR HATCH:

Q Well, let me show you Document 38. Whose handwriting is this in; do you know? Have you seen this before? Do you recognize the handwriting?

A (Perusing document.) No, I don't recognize the handwriting, and I have not seen this before.

Q Exhibit 38 basically says, "From Adamski--On the name check you are looking for--not yet completed--doesn't mean anything dire--but if you are pushed call him."

Do you know what that means?

MR. OLSON: Has this document been identified on the record previously?

SENATOR HATCH: Not that I know of.

MR. OLSON: Well, you are asking for him to interpret a document that he has never seen before.

SENATOR HATCH: I am asking if he recalls a

EXHIBIT NO. 38

Ex 38
Adamski
8/18/82

From Adamski -
re the name
ck. you are
looking for -
not yet completed
doesn't mean
anything dire -
but if you are
pushed call
him.

conversation where he said that it does not mean anything dire.

THE WITNESS: The terminology, "anything dire", is terminology that I sometimes use, but I don't recall this specific conversation or who it was with or what it was about.

BY SENATOR HATCH:

Q Do you recall your words or substance of your words reassuring any member of the transition team that there was nothing difficult to be expected from the Donovan investigation?

MR. OLSON: If you are referring to another document --

SENATOR HATCH: I am referring to that document --

MR. OLSON: Is this the same --

SENATOR HATCH: I'm referring to any conversation, not to the document.

BY SENATOR HATCH:

Q Did you have a conversation with anybody on the transition team, indicating that you did not think this was a very significant problem, or there was nothing dire as far as the name checks were concerned, or any other checks?

A I had a lot of conversations with people at the transition office --

Q And you could have said that, I take it?

A I don't know. I don't recall this particular circumstance.

Q If Fielding was not there, and you left a message for Fielding, who would you have left it with? Did you talk to anybody other than Fielding?

A I did not talk to anybody besides Mr. Fielding, with the exception of his secretary or Ms. Dannenhauer, or persons acting for them.

Q Was there someone on Fielding's staff you dealt with in Fielding's absence, like Ms. Dannenhauer.

A Not at that time, not on substantive matters. I dealt directly with Mr. Fielding.

Q Okay. Did Director Webster or anyone on his behalf consult with you before the Director returned Mr. Meese's call on December 12th, 1980?

A I'm not sure that I was aware of --

Q Of the call?

A -- of the call.

Q Okay. Do you know if the Director or anyone on his behalf talked to you after he spoke to Mr. James, Pendleton James, of the transition team, in Mr. Meese's absence; are you aware of that?

A I am now. I am not sure I was aware of that at the time.

Q Well, do you know if the Director or anyone on his behalf talked to you after he spoke to Mr. James?

A The Director did not talk to me.

Q Anybody on his behalf?

A I would have obtained my information from Joseph Schulte. I don't know if that was at the Director's or on the Director's behalf. It may just have been furnishing me the information.

Q Did you know that the Director advised Mr. James that, based upon his conversation with Mr. Mullen on December 10th, 1980, and his conversation with Mr. Revell, that nothing negative had been located concerning Mr. Donovan?

A I did not know that.

Q Did you supply the information to Mr. Revell that there was basically nothing negative?

MR. OLSON: Are you referring to a specific document?

SENATOR HATCH: On December 10th -- no.

MR. OLSON: What are you referring to?

SENATOR HATCH: I am referring to a conversation between the Director and Mr. James.

MR. OLSON: Is this something that the witness has testified about, or has referred to in some document?

SENATOR HATCH: No. You have a document there that indicates that Mr. Revell, his supervisor, supplied certain information. I am saying, did he supply the information to Mr. Revell.

MR. OLSON: That's fine. I was wondering whether you were referring to a specific document. I take it now you are referring to Exhibit 3?

SENATOR HATCH: Yes, Exhibit 3, and that is actually referred to there.

THE WITNESS: I don't recall furnishing that information, but ultimately, the way things worked, it would have come from my unit.

BY SENATOR HATCH:

Q Do you know if Mr. Revell, independent of you, sent out the Telex, or directions to all field offices, to conduct an independent investigation, independent of you, or an investigation independent of you?

A We have located no such document in the internal review that we have had.

Q Have you only looked in the SPIN record, or have you looked elsewhere?

A We have looked in every place we could think to look, Senator.

Q Now, did you know that there were a number of references to the Schiavone Company in the HOFEX case?

A No, Senator, I did not. I am not familiar with the HOFEX case.

Q Do you know it now -- do you know anything about it now, even up to today?

A No, Senator.

Q Did you know that the Director advised Mr. Pen James of these references?

A I do, from this document, Exhibit 3.

MR. OLSON: You know what the document says. Do you know the fact of it from the document?

THE WITNESS: No, I do not know the fact of it.

BY SENATOR HATCH:

Q So the only specific references to Schiavone in the HOFEX case you know about are from that document right there, Exhibit 3?

A Exhibit 3.

Q Well, let me ask you this. Would it be fair to say, then, since you did not know of any of this information before seeing this document listed as Exhibit 3, that neither you nor anybody working with you supplied the information that is provided in that document?

A (Perusing document.) With regard to the information provided concerning the HOFEX case, and with regard to the information that indicates that all field offices were checked, I did not provide that information.

Q Anybody working with you, did they provide that information, if you know?

A Not to my knowledge.

Q Did you know that Mr. Meese called the Director later the same day, on December 12th, 1980, to make certain that there were no ongoing investigations concerning Mr. Donovan; did you know that?

A Not at the time.

Q So you were not consulted by anybody concerning that call?

A No, sir.

Q Do you know, even today, that the Director advised Mr. Meese that there were no ongoing investigations?

A No, sir, I am not aware of any conversations between the Director and Mr. Meese.

Q Would the name check you conducted have turned up any ongoing investigations of Mr. Donovan?

A If Mr. Donovan was the subject of an investigation, the name check should have turned that up.

Q But it did not?

A But it did not.

Q Now, as I understand it, Mr. Donovan was nominated as Secretary of Labor on December 16th, 1980. Are you aware of that?

MR. OLSON: Senator, I have to correct the record from a technical standpoint. I think the nomination came to the United States Senate on January 20th, 1981.

SENATOR HATCH: It was formally announced -- I guess what I am really meaning to say is the President-elect formally announced his intention on December 16th, 1980.

BY SENATOR HATCH:

Q Are you aware of that?

A I may have been from newspaper accounts, but not independent of that.

Q Do you know how many days after December 16th, 1980 you received the request for a full field investigation?

A I believe the record shows that we received that investigation on December 30th.

Q On the 30th of December?

A That's correct.

Q Okay. The FBI chronology, which is Exhibit 16a, states that on December 30th, 1980, you received 16 major position nominee positions, and this was one of them, I take it?

A It was one of the ones received on December 30th, yes.

SENATOR HATCH: Okay.

MR. OLSON: May I -- did you say the number "16"?

SENATOR HATCH: There were 16 major position nominees applications. But as I understand it, the only Cabinet post was Mr. Donovan, in that number. There were 15 nominations on Exhibit 16a; I guess that's what it is.

MR. OLSON: I'm not sure that this exhibit purports to be a chronology. It was attached, as I understand it, as an index or table of contents of documents, but is arranged in chronological order. I do not mean to be quibbling.

SENATOR HATCH: Yes. It is listed as a chronology between alleged contacts of the Justice Department and the --

MR. OLSON: Well, the word "chronology" doesn't appear on the document itself.

SENATOR HATCH: All right, but that's what the purpose of it is.

MR. OLSON: Well, I'm not sure what the purpose of it was. That's why I make the point. I'm not sure that --

SENATOR HATCH: Well, if I am incorrectly using "chronology", get back with us and correct my term.

MR. OLSON: The only thing I can say is that it appears to be a table of contents of documents. It is arranged chronologically.

BY SENATOR HATCH:

Q Now, other than Mr. Donovan, had every other applicant investigation been concluded for every other Cabinet nominee by December 30th, 1980, if you know?

A Concluded?

Q Yes.

A No, sir.

Q Okay. Was it entirely up to Mr. Fielding when to request each applicant investigation?

A From our standpoint, it was. I don't know if it was entirely up to Mr. Fielding.

Q Now, in the full field request for an applicant investigation of Mr. Donovan, dated December 30th, 1981, there appears to be a Bureau deadline, marked "BUDED", of 1/2/81. Is that correct? I will give you a copy of what we will make Exhibit 39. (Handing document.)

A (Perusing document.) That's correct.

(Exhibit Number 39 was marked for identification.)

Q And that Exhibit Number 39 is what you did receive from Fred Fielding, is that right?

A That's a copy of the form that they signed, yes.

Q What is the significance of the word, "Drake", over the "BUDED 1/2/81"?

A That is the supervisor at headquarters that I assigned the case to, and the BUDED of 1/2/81 is when I instructed that he instruct the field offices to complete the investigation by.

Q Is that your handwriting?

A It appears to be, yes.

Q And what exactly was supposed to occur between December 30th, '80 and January 2nd, 1981?

A Full field special inquiry investigation.

Q What did happen in that period?

A There was a full field special inquiry investigation that was not completed -- well, it was completed, until

EXHIBIT NO. 39

TO: FBI, LIAISON

FROM: FRED F. FIELDING

SUBJECT: FBI INVESTIGATIONS

DECEMBER 30, 1980

Drake

Ex 39

8/18/82

Subject's Name DONOVAN, RAYMOND J.

Date of Birth Aug. 31, 19~~80~~30 Place of Birth BAYONNE, NEW JERSEY

Present Address 54 MERRYWOOD LANE, SHORT HILLS, NEW JERSEY

We request:

☐ Copy of Previous Report

☐ Name Check

☒ Full Field Investigation NO IRS TO FBI

The person named above is being considered for:

☐ White House Staff Position

☒ Presidential Appointment

Attachments:

☒ SF 86 1 2

☐ SF 87, Fingerprint Card

Remarks/Special Instructions:

PLEASE EXPEDITE

12/31/80

DK

PK

DF

additional information came through.

Q But why was it necessary to extend the period at all -- or was it extended?

A Extend which period?

Q This period from the 30th to the 2nd. Or, was it extended?

A It wasn't at this point in time. Those offices complied, and we wrote the summary.

Q Did you, yourself, work on those days during this applicant investigation?

A Yes, sir.

Q To your knowledge, were there any agents with organized crime experience who were assigned to the applicant investigation of Mr. Donovan during this field investigation?

A Do you mean in our field offices?

Q Right.

A Not to my knowledge.

Q Okay. Was there any investigation actually conducted on December 30th, 1980?

A I don't know. We telephoned it out. It could have been.

Q Do you know approximately what time of day on December 30th, 1980 this request was received by the SPIN unit? There is a date on the bottom, "12/31/80". Can you tell the time of day?

A No, sir, I can't.

Q Okay. Now, does this mean -- I am talking about the writing in the lower right-hand corner of the document, where it says, "12/31/80", and there seem to be a number of initials. Does this mean it was actually assigned to these people on that date, 12/31?

A I believe that refers to when a card was made up on this particular case in my unit.

Q Would there have been any work done before that card was made up?

A In this particular case, yes.

Q There was. Now, are you telling me that the FBI people worked on this applicant investigation on New Year's Eve, then?

A Yes, sir.

Q Okay. Were men with less seniority assigned to work on this applicant investigation?

MR.OLSON: Less seniority than what?

SENATOR HATCH: Than normally would be required.

THE WITNESS: I don't know. It would be dependent on each field office.

BY SENATOR HATCH:

Q Do you know who actually worked on the applicant investigation?

A I know of several people, but not all.

Q Okay. Could you name them -- the ones you can?

A Michael Drake in my unit; William Hotop was the supervisor in New York; Frank Gallagher was the supervisor in Newark; Dave Bowie was the supervisor in our Washington field office --

Q So they certainly weren't inexperienced people.

A No.

Q What was accomplished between January 2nd, 1981, the original Bureau deadline, and the January 5th, 1981 date when the letter and memorandum was provided to the transition team?

A The results of the field investigation were received at headquarters on or about January the 2nd. On that Saturday and that Sunday, the people in my unit synthesized the raw data in summary format, dictated summaries, had summaries typed and corrected, for delivery to the White House on the 5th.

Q Let's see, January 3rd, 1981 and January 4th, 1981 were Saturday and Sunday, respectively. Was anything actually done on those days?

A Yes; they were full working days.

Q Okay. Did you, yourself, author the report of January 5th, 1981, which has been placed in the record as Exhibit Number 10?

A May I see that? I don't think I did.

Q Yes. (Handing document to witness.)

A (Perusing document.) I did not.

Q Okay. Who did?

A Michael L. Drake.

Q Did you review it?

MR. OLSON: Excuse me, Senator. (Conferring with witness.)

THE WITNESS: Go ahead, Senator.

BY SENATOR HATCH:

Q Did you review it?

A Yes, I did.

Q Did anyone else review it?

A Yes.

Q Could you name who they are?

A Joseph Domzalski, Joseph Schulte. (Perusing documents.) It appears that those are the only people that saw it at this point in time. I know it was reviewed further.

Q Now, that January 5th, 1981 memorandum -- letter and memorandum -- makes no reference to the HOPEX investigation, to the Jopel-Masselli investigations, to the Montuoro allegations, the Picardo allegations, or any of these other allegations that have since surfaced; is that correct?

MR. OLSON: The document speaks for itself, Mr.

Chairman. Do you want the witness to review it?

SENATOR HATCH: I still want him to review it and answer that question.

MR. OLSON: We will accept your representation.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Now, the report included information about the Grand Jury investigation in the Eastern District of New York. It was worded generally and did not specify officials and records of the Schiavone -- it was worded generally, and it did not specify, but officials and records of the Schiavone Construction Company had been subpoenaed in connection with the alleged demands by Harry Gross, of Teamsters' Local 282, that his chauffeur be put on the Schiavone payroll as a "no-show" employee.

Why did the report not so specify?

A This was an investigation concerning Raymond Donovan. While we thought it important to make the White House aware of this investigation, we did not go into it in depth with regard to other offices of the Schiavone Construction Company, or Schiavone's role there, other than to say that they were involved in it.

Q Is that the reason why the report was just worded so generally?

A It's worded just to bring to the attention of the reader that that is a matter going on. We didn't want to get into the specific investigation.

Q Why didn't the January 5th, 1981 report contain information about the Grand Jury investigation in the Southern District of New York, concerning Masselli-Jopel, and the Schiavone Company or the Schiavone records in the HOFEX case?

A I don't think we knew about it.

Q You don't think you had knowledge about it at that time?

A Not in the SPIN unit.

Q Why didn't the January 5th, 1981 report contain information about the references to Mr. Donovan and other Schiavone officials on the Masselli tapes?

MR. OLSON: Reference?

SENATOR HATCH: Reference or references.

THE WITNESS: I don't think we knew about that either, at that time.

BY SENATOR HATCH:

Q Were there any discussions about what should or shouldn't be included in the report?

A I think any time you are creating a document like this, there are discussions of what should or should not be included, and it goes down to the specific wording. But if you are asking was anything not included for any reason --

well, that's not correct, either. We had style discussions as to what should be --

Q How to write it?

A -- how to write it.

Q How to phrase it.

A Correct.

Q Did those style discussions consider leaving out any information that the Committee would have liked to have had, or that you thought the Committee would be interested in?

MR. OLSON: You are asking him if there were discussions about what the Committee would have been interested in?

SENATOR HATCH: No.

MR. OLSON: I don't understand the question.

SENATOR HATCH: Well, reports that Fielding would be interested in, because the Committee wasn't involved in this. You were preparing this for Mr. Fielding.

THE WITNESS: That's correct. At the time we concluded the 1/5 letterhead memorandum, we thought that we had furnished everything that we could and should furnish to the White House.

BY SENATOR HATCH:

Q I see. Now, did you discuss this with Mr. Mullen, as well, this January 5th, 1981 report?

A I don't have any recollection of speaking with Mr.

Mullen on that report.

Q Were there any discussions with Mr. Fielding about the contents of the report?

MR. OLSON: Are you talking about prior to the production of the report or afterwards?

SENATOR HATCH: Both.

THE WITNESS: I really can't recall. There may have been.

BY SENATOR HATCH:

Q Were there any discussions pertaining to submitting this report to the Committee?

A Not the specific report on Donovan.

Q What did you discuss about the Committee?

A Well, not specifically your Committee, but any committee.

Q Any committee.

A We discussed the procedures that would be used to get the reports to the committee.

Q Did you arrive at any conclusions with regard to the procedures, and if so, what were they?

A Just that we would furnish the summaries to the White House, and the White House would furnish the summaries to the chairman of the respective committee, upon request or voluntarily.

Q Are there any internal memoranda concerning the preparation of the January 5th, '81 report, or its dissemination?

A I'm not sure I understand that, Senator.

Q Is there any internal memorandum that the FBI has in its possession concerning the preparation or dissemination of this January 5th, 1981 report?

A Not to my knowledge.

Q Okay. Isn't it a fact that according to the report of January 5th, 1981, the applicant investigation of Mr. Donovan was considered "favorable and complete"?

MR. OLSON: What page are you quoting from?

SENATOR HATCH: The front page on the Oliver B. Revell letter, the bottom of the note, the last two words, or last three words.

THE WITNESS: (Perusing document.) That's what it says on our internal note, understanding "favorable" not necessarily meaning that no negative information was developed.

SENATOR HATCH: Sure.

BY SENATOR HATCH:

Q On or about December 31st, 1980, did you become aware of news articles describing a New Jersey investigation underway in 1969 and 1970, involving the Schiavone Construction Company?

MR. OLSON: What was the date in the first part of your question?

SENATOR HATCH: That was December 31st, 1980, and I think I am referring to the Kantor problem.

THE WITNESS: I became aware of that sometime in that time period, yes.

BY SENATOR HATCH:

Q Okay. On or about December 31st, 1980, did you see a letter from Senator Kennedy and myself to Director Webster, dated December 31st, 1980 -- that has already been marked as Exhibit 8?

MR. OLSON: May the witness have a copy?

(Senator Hatch handing document to witness.)

SENATOR HATCH: Mr. Mullen did say you were familiar with this request.

THE WITNESS: (Perusing document.) I don't remember the specific date, Senator, but I do recall this letter.

BY SENATOR HATCH:

Q So you therefore saw that we specifically referred to the New Jersey investigation in that letter, didn't you?

A That's correct.

Q Okay. For what reason was that investigation overlooked in your memorandum of January 5th, 1981 to the transition team? Was there any reason for that?

A The investigation there was of the Schiavone Construction Company, and it did not come up in our indices check concerning Raymond J. Donovan.

Q Well, in your January 5th, report -- I am referring to page 5, the last paragraph -- you say, "The central files of the FBI, including the files of the Identification Division, were checked by name only and contained no additional pertinent information concerning Mr. Donovan. However, records indicate that Schiavone Construction Company, Secaucus, New Jersey, is partially owned by Mr. Donovan and is the subject of current FBI investigation under Federal statutes of Racketeer Influence in Corrupt Organization and Labor Management Relations Act, 1947. Investigation against the Schiavone Construction Company is based upon allegations of the Union President, who has misused the pension and welfare fund and received extensive kickbacks for approving loans and awarding 'sweetheart' contracts. To date, there is no specific information to indicate any criminal involvement of Mr. Donovan."

So, you referred to the company there, but you didn't feel to refer to the company with regard to the Kantor allegations that we raised in our letter of December 31st, 1980?

A Senator, it is my recollection that the Schiavone Construction Company was not a subject of that investigation. I believe that investigation was in regard to Hugh Addonizio. And it was mentioned, but not a subject, and therefore --

Q Yes, well, I was interested that you had mentioned that and not mentioned the Kantor allegation that we had informed you about on December 31st, and I was wondering, why didn't you?

A (Conferring with Mr. Olson.)

Q It seems to me -- maybe I can make it even more clear. Obviously, since the Committee knew about this allegation and had referred it to you in our letter, it would be a subject of inquiry and consideration at the Donovan hearings on December -- or, excuse me, on January 7th, which was the date we had scheduled those hearings for. I was just wondering why you wouldn't make the White House aware of that type of an allegation, since you knew that we were going to ask questions about it on January 7th -- which actually turned out to be January 12th, again, when we held the hearing.

A Well, I'm not sure that we did not make the White House aware.

Q But you did not in this January 5th report.

A But not in the January 5th report.

Q You may have done so early, is that what you are saying?

A I may have done so early. And as far as your hearings go, Senator, I was not aware of--

Q I may have done so early. I mean, I don't know, because we did have a meeting with Mr. Fielding at or about the time that, apparently, he showed us the January 5th memorandum. I can't remember, but Senator Kennedy seems to remember it. I remember the materials in the memorandum, so I have to presume he showed it to us. Okay. We were just wondering why it wasn't in the memorandum itself, since you knew about it, because we had referred it to you.

On or about January 7th, 1981, a cover letter and memorandum were prepared "in response" to this Committee's request. That is Exhibit 11. Let me direct your attention to what has been marked as Exhibit 11. Do you recognize the internal memo from Acting Director Colwell to the Assistant Attorney General of the Office of Legislative Affairs? Do you recognize that?

A Yes, I do, Senator.

Q Then, in addition, in that exhibit is the Acting Director Colwell's cover letter to myself and the letter and memorandum regarding Donovan; is that correct?

A That's what is here, yes, sir.

Q Did you author these three documents? I notice that your initials are present on two of the three documents comprising Exhibit 11.

Is that correct?

A It is correct my initials are on two of the three, and I don't recall -- if you will give me a moment, I will read the third one. (Perusing document.) Senator, it appears that I did author the letterhead memorandum attached.

Q Okay, did you author either of the other parts?

A Yes.

Q So you authored all of the pages in this Exhibit Number 11?

A Yes.

Q Didn't you expressly note that this memorandum was "prepared in response to request of Senator Labor and Human Resources Committee for information concerning Donovan and company in which he is a partner"? That is in the note part of the second page, at the bottom.

Do you see where I am talking about?

MR. OLSON: Just a moment, Senator. (Conferring with witness.)

THE WITNESS: Senator, the question was did I author the note?

SENATOR HATCH: Yes.

THE WITNESS: Yes, I did.

BY SENATOR HATCH:

Q What did you do to enable you to respond to this Committee's request? Do you know exactly what you did? I might ask what systems and records did you check or cause to be checked and what else, if anything else, was done?

MR. OLSON: In the preparation of the three documents?

SENATOR HATCH: In meeting the response that he said he was going to :--

MR. OLSON: You are asking what was done by the FBI in connection with the three documents -- to come up with information contained in the three documents --

SENATOR HATCH: That's right.

THE WITNESS: It's my recollection that I had the central files of the FBI checked. I located the investigation involving Hugh J. Addonizio et al; I reviewed that file. I called the Newark field division to see what the status of that investigation was, and I prepared the memorandum.

BY SENATOR HATCH:

Q Who did you speak to in the Newark field division, if you remember?

A I don't remember.

Q Okay. Now, it is a fact that you made no mention of the Gross matter, the Jopel-Massolli matter, the HOFEX matter, Picardo, or any of these other subsequent matters that have come up; is that correct?

A That's correct. We didn't make any mention of that in this letterhead memorandum, and in fact, I don't think we were aware of those things at this point in time.

Q Well, you did have to know about the Gross matter, because you had on January 5th put it into a a memorandum --

A Yes. I am sorry. That is in the other memorandum. But Jopel and Masselli --

Q Is there any reason or reasons why you omitted any of these matters?

A Omitted any --

Q Any of these matters -- Gross, Masselli, Jopel, HOFEX, Picardo.

A FRom this January 7th memorandum?

Q Yes.

MR. OLSON: Senator, I'm not sure I understand your question. He said that one of them is referred to in the January 5 materials, and the other two, he wasn't sure he knew about.

SENATOR HATCH: Well, the 5 materials went to the White House; these materials went to me.

You see, we specifically requested in our December 31st, 1980 letter a variety of matters. Then, in a return response, we didn't get as much information as was available to the FBI in the return response.

THE WITNESS: Senator, as I recall the circumstances, we wanted to be responsive to either specific requests concerning the Kantor Supply Company. And there was some sort of a meeting, I believe, between representatives of the Department of Justice and Senator Kennedy, perhaps, which I was not in attendance, and there was some modification made to your December 31st letter.

Q I see. And my letter says, in this one paragraph, "We would like to have a report immediately regarding all the information that the FBI has already assembled in connection with your background investigation of Mr. Donovan. In addition, if the FBI background investigations already conducted regarding Mr. Donovan did not fully deal with all matters relating to the prior Department of Justice inquiries relating to the Schiavone Construction Company or Mr. Donovan, we ask that this be initiated immediately and a report be provided to me by January 7th, 1981."

Who do you believe attended this meeting that resulted in any modification in what you gave us?

A The only name that I am aware of was Senator Kennedy's and representatives of the Department of Justice. As I said, I was not in attendance.

SENATOR HATCH: One of the problems was that the hearing was scheduled for January 7th, '82, but we didn't get this information back until quite late on the 7th, so I had to reschedule the hearing for January 12th of '81.-- that should be corrected in the prior date -- and that is one reason why we changed the date to the 12th.

Why don't we quit at that point, and we will begin again tomorrow at 7:30, right here again, unless we notify you otherwise. It is probably going to be a little less than two hours, just a little less, because we have a mark-up scheduled for 9:30.

(Whereupon, at 11:05 a.m., the proceedings were recessed, to reconvene Thursday, August 19, 1982, at 7:30 a.m.)

CERTIFICATE OF REPORTER

I, Tony Jackubosky, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Tony Jackubosky

Tony Jackubosky, Reporter

CERTIFICATE OF REPORTER

I, Cathy Jardim, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Cathy Jardim

Cathy Jardim, Reporter

CERTIFICATE OF REPORTER

I, Anne E. Hayes, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Anne E. Hayes

Anne E. Hayes, Reporter

416-417

United States Senate

Committee on Labor and Human Resources

Washington, D.C.

Thursday, August 19, 1982
7:37 a.m.

Room 1318 Dirksen Office Bldg

RESUMED SWORN RECORD OF ANTHONY ADAMSKI, JR., UNIT CHIEF, FINANCIAL CRIMES UNIT, FBI

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
John A. Mintz, General Counsel, FBI
J. Kevin O'Brien, Office of Congressional Affairs, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Walter Sheridan, designated staff member of Senator Kennedy
Harold Gordon, designated staff member of Senator East
Bob Marshall, designated staff member of Senator Denton
Bruce Navarro, designated staff member of Senator Nickles
Joel Lisker, designated staff member of Senator Denton
Diann Howland, designated staff member of Senator Quayle
Tom Parry, designated staff member of Senator Hatch

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff
Deborah Dahl, Committee Staff

SENATOR HATCH: Are we all set to go? Why don't we identify ourselves? Let's start with you over there, okay?

For the record, we will identify ourselves.

MS. HOWLAND: Diann Howland, from Senator Quayle's office.

MR. MINTZ: John A. Mintz, General Counsel, FBI.

MR. O'BRIEN: J. Kevin O'Brien, Office of Congressional Affairs, FBI.

MS. EGBERG: Carol Egbert, Senator Hatch's staff.

MS. MULKEY: Barbara Mulkey, Committee staff.

MR. FLANNERY: John Flannery, Senator Hatch.

MR. LISKER: Joel Lisker, Senator Denton.

MR. NAVARRO: Bruce Navarro, Senator Nickles.

MR. PARRY: Senator Hatch.

MR. MARSHALL: Bob Marshall, Senator Denton.

MR. GORDON: Harold Gordon, with Senator East.

MR. OLSON: Theodore Olson, Department of Justice.

MR. ADAMSKI: Anthony Adamski, Criminal Investigative Division, FBI.

Thereupon,

ANTHONY ADAMSKI, JR.

was called as a witness and, having previously been duly sworn by Senator Hatch, was examined and testified further as follows:

BY SENATOR HATCH:

Q Mr. Adamski, you know who Albert Magrini is, don't you, Vice president of Schiavone Construction Company?

A I know his name and his connection with Schiavone Construction Company.

Q Have you ever met him?

A No, I have not.

SENATOR HATCH: Let the record show that Walter Sheridan, of Senator Kennedy's office, is here.

BY SENATOR HATCH:

Q Now, you are aware that he is a Schiavone Construction Company Vice President?

A I am aware of that, yes.

Q Okay. Did there come a time that you learned that it is through Mr. Magrini that Schiavone Construction Company was closely aligned with the Vito Genovese family of La Cosa Nostra?

A We had that allegation, sir.

Q And when did you learn that?

A On January 10th or 11th of 1981.

Q Exactly what did you learn was Mr. Magrini's relationship with the Genovese crime family?

A We were not able to confirm any such allegation.

Q Do you know who made the allegation?

A It was one of our informants.

Q Was it a reliable informant?

A It was a reliable informant.

Q Do you have any other information that would indicate that Mr. Magrini had a relationship with the Genovese crime family?

A Not to my specific recollection, Senator.

Q In any way?

A Again, not to my specific recollection.

Q Okay. Did you also learn that both Magrini and Donovan had social and business contacts with Masselli?

A Yes.

Q And when did you learn that?

MR. OLSON: Excuse me. (Conferring with witness.)

THE WITNESS: I learned of that allegation at the same time, on January 10th or 11th, 1981.

BY SENATOR HATCH:

Q From the same informant?

A I am not sure.

Q Was this a protected informant?

A By "protected", Senator, what do you mean?

Q Under the Witness Protection Program.

A I don't think so.

Q Okay. Isn't it a fact that Masselli was a self-admitted soldier in the Genovese crime family?

A I don't know whether or not it is a fact. It is a fact that that is the information we received.

Q Did you check that out?

A We attempted to.

Q You accepted it?

A We accepted the allegation.

Q I see. Do you believe that?

A I have no basis to either believe or disbelieve. I accept the allegation.

Q Okay. Who made that allegation that he was a self-admitted soldier in the Genovese crime family?

A Again, one of our informants.

Q I see. Now, Albert Magrini is a close business associate of Mr. Donovan's; is that correct?

A I don't know. I know he is associated with the company.

Q Now, you received information that Schiavone Construction Company was closely aligned with the Genovese crime family through Magrini; is that correct?

A We received that allegation, yes.

Q Okay. Did you check it out?

A We attempted to.

Q What did you do to attempt to check it out?

A We contacted our informants and sources in an attempt to find some supporting information.

Q And did the information support that allegation?

A Not to any proveable standard.

Q Did the FBI consider Mr. Magrini a "questionable" individual within the meaning of the FBI guidelines?

A We did not, from the special inquiry aspect, consider Mr. Magrini at all.

Q Well, for what reason didn't you, if he was supposedly the contact with the Genovese family from the Schiavone Construction Company --

A The special --

Q -- and a close contact with Masselli, a self-admitted soldier?

A The special inquiry investigation was specifically confined to the background and suitability of Mr. Donovan. We attempted to develop further information concerning Mr. Magrini to either confirm or disavow the allegations of his association with organized crime elements. We were unable to do so. It is not the function of the special inquiry investigation to then conduct an investigation concerning Mr. Magrini.

Q Did you take the statement of Mr. Magrini?

A I didn't, no, sir.

Q Did anybody in the FBI, to your knowledge?

A Not to my knowledge.

Q Okay. Under Section 17, with regard to association with questionable individuals, under your guidelines, the four steps are to "1) ascertain the degree of association and awareness on the part of the person under investigation of activities of questionable/individual; 2) extent of influence questionable individual exercises over applicant; 3) if questionable individual previously investigated under Executive Order 9835, Executive 10450, or Executive Order 10422, report should so state, and include title, position, agency where employed, and year investigation conducted. Also, report any pertinent data received subsequent to above investigation. 4) Search names of questionable associates through office indices."

Do you feel that the FBI in this case followed those guidelines?

A I would have to say yes.

Q You would have to say yes.

Under the Section 17, it said you should interview all references and associates, except, "1) Do not interview individual concerning whom information is known which would preclude interview, but if appropriate, characterize individual; 2) An isolated individual who cannot be contacted without expenditure of unreasonable time and travel, or individual whose unavailability for other reasons would delay investigation need not be interviewed, provided satisfactory investigation can be conducted without interview. When such an individual is not interviewed, show in details of report individual unavailable and amplify circumstances on cover page, if needed. If derogatory information exists concerning a reference or associate, ascertain nature and extent of his or her association with applicant."

Now, did Mr. Magrini come under any of those exceptions?

A Senator, may I see that document?

Q Sure. (Handing document to witness.)

A (Perusing document.) Thank you.

MR. OLSON: That was Exhibit 12?

SENATOR HATCH: Yes.

THE WITNESS: Those rules that you have just read refer specifically to those cases that we report in report form, not in summary form. Special inquiry cases are reported in summary form. There is no cover page to a report. There is no report.

BY SENATOR HATCH:

Q When and how did you become aware that informants of the New York office had furnished information on January 8th of 1981, alleging that Mr. Donovan and Schiavone officials had ties to organized crime?

A My recollection is that I received that information on January 10th or January 11th, 1981.

Q Was the January 10th, 1981 teletype your first knowledge, or had there been prior phone calls or other communication?

A I think my earliest knowledge was based on a phone call to one of my supervisors on January 10th.

Q Would you describe that phone call and who made it, if you can?

A I don't know who made it from New York. The supervisor who received the call, I believe, was Michael L. Drake, who reported it to me. We took no action at that time, pending the receipt of the hard copy.

Q But do you know who made the call?

A I'm sorry, Senator?

Q Do you know who made the call?

A I do not.

Q Was it an informant?

A Oh, no.

Q It would have been somebody in the FBI?

A It would have been somebody in the FBI.

Q Okay. What did you do as a result of this conversation with Drake?

A I told him we would wait until we saw the hard copy, the teletype.

Q What were the instructions to the field offices on the state and method of transmitting such information, if you know?

A General instructions are that when derogatory information of any nature is developed that it should be telephoned to FBI headquarters and subsequently, followed by teletype.

Q Now, this information was certainly derogatory, wasn't it?

A It certainly was a derogatory allegation.

Q Okay. If the information was first obtained on Thursday, January 8th, of 1981, which was a Thursday, why was it not furnished to FBI headquarters until January 10th, 1981, which was a Saturday?

A The reason for that, Senator, is that the information surfaced from one informant, as I recall; the New York Division, before forwarding that sort of a serious allegation to headquarters, wanted to check with other sources, other places, for corroboration or disavowal of the information.

Q Actually, there could have been more than one informant on that information, isn't that correct?

A I am sure there were, sir.

Q Okay. Do you know upon which date the tape reference was discovered?

MR. OLSON: May he look at the exhibit to which you are referring?

SENATOR HATCH: I am not referring to one. I am just asking him if he knows the date the tape record was discovered.

MR. OLSON: But if it is permissible with you, Mr.

Chairman, I would like to be able to put the January 12 internal memorandum, to which we have had previous reference, in front of the witness.

SENATOR HATCH: Sure.

THE WITNESS: Senator, may I have the question again? I am sorry.

BY SENATOR HATCH:

Q When did you first find the tape reference?

A I was first made aware that one existed in the teletype on January 10th from New York, and I may have been made aware of that during the oral conversation with my supervisor.

Q Do you know what date the people in New York discovered the tape reference?

A No, sir, I don't.

Q I see. Do you know who discovered it?

A No, sir, I don't.

Q When it was discovered?

A No, sir, I don't.

Q Did you discuss the January 10th, 1981 teletype with anyone in the New York office?

A To the best of my recollection, I don't think so.

Q Okay. Did you discuss the January 10th, 1981 teletype with Mr. Monroe?

A Not to my recollection.

Q So you don't know whether or not he told you to write a memorandum for his signature?

A It's my recollection I did that on my own initiative.

Q Okay. Was there any conversation with Mr. Mullen about the information contained on the January 10th, '81 teletype?

A Not at that time.

Q Did you discuss the teletype with anyone else at FBI headquarters, and if so, who?

MR. OLSON: Are you asking him whether he discussed the teletype itself, or the information which was contained in the teletype?

SENATOR HATCH: Both.

THE WITNESS: I am sure that I discussed the information contained in the teletype with the supervisor in charge of the case, Michael L. Drake. I am sure I discussed the teletype with Section Chief, Joe Schulte, and Assistant Section Chief, Joe Domzalski. Other than that, I have no specific recollection.

BY SENATOR HATCH:

Q Did you discuss the teletype or its contents with anybody at Justice?

A No, no one at Justice at that time.

Q Or at the White House?

A Not on that day.

Q Okay. On page 2 of your memorandum of January 12, 1981, which is Exhibit 13, you refer to a pertinent tape reference, "that Mr. Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function." Were you aware that Mr. Magrini had invited Mr. Masselli?

A No, sir, I was not.

Q Did you review or have anyone review a transcript of that tape reference?

A I'm not quite sure what you mean by "transcript." I had no one review a whole transcript. The only information we had available to us was a paragraph or two that had been transcribed.

Q So nobody followed up and reviewed the actual tape transcript, then, to your knowledge?

A I don't know.

Q Okay, let me direct your attention to what has been marked as Exhibit 24. Have you seen that before?

A (Perusing document.) No, Senator, I have not.

Q At the second page of that exhibit, it also refers to Bobby DeFilippis. Do you know who he is?

A My recollection is that he is in the construction business, or trucking business.

Q Does your recollection include that he was an associate and friend of people associated with the Genovese family, including Masselli?

A I am not sure it was the Genovese family. I know he had organized crime affiliations, or he was alleged to have organized crime affiliations.

Q Do you know what his association was with the Schiavone Construction Company, with Mr. Donovan or Mr. Masselli, or have you heard anything pertaining to that?

A No, I don't specifically know what his relationship was.

Q Do you know whether he was under investigation?

A At the time, no.

Q Okay. Did you determine whether he was?

A I think subsequently, within, say, the past year, I have received that information.

Q You have had recent information that he was under investigation in January of 1981, isn't that correct?

A I have not.

Q You have not. Now, you said you recently learned that he was under investigation. Could you explain that to us?

MR. OLSON: He said within the last year.

SENATOR HATCH: Within the last year -- recently, you said.

MR. OLSON: He said within the last year.

SENATOR HATCH: I consider that recently, but within the last year is fine.

BY SENATOR HATCH:

Q Go ahead.

A How I came on that information -- is that your question?

Q Yes, and what did you find out?

A I came on that information in the preparation of some communication, I believe, responding to a communication of yours.

Q Okay. One of our problems is, we were not told about this information that he had a relationship with Mr. DeFilippis, who is alleged to have had organized crime associations.

Now, let me ask you this. Under the FBI guidelines, is a person under investigation a "questionable individual"?

A Is a person under investigation a questionable individual?

Q Yes, under criminal investigation; under your guidelines. Do you consider that to be the case?

A I'm not quite sure I understand your question.

Q Well, if you are investigating a person like DeFilippis or Magrini or any of these people in regard to a criminal investigation, do you categorize them as "questionable individuals", in quotes?

A If we can substantiate the allegation that is first brought to us, I would presume we would categorize them as questionable individuals.

Q Okay. You make some reference in your memorandum to an allegation that Mr. Donovan travelled to Florida in January of 1979. Did you know that Mr. Donovan did, in fact, travel to Florida and was there up until the day before the Superbowl? Are you aware of that?

MR. OLSON: You are referring to Exhibit 13?

SENATOR HATCH: That will be a new exhibit. That will be Exhibit 40, and what it amounts to is a letter from Dean Burch, the attorney for Mr. Donovan, to the Special Prosecutor, Mr. Silverman, dated May 26, 1982.

(Exhibit Number 40 was marked for identification.)

BY SENATOR HATCH:

Q Are you aware that Mr. Donovan was, in fact, in Florida right up until the day before the Superbowl?

MR. OLSON: Excuse me, Senator, excuse me. Your original question referred to a memorandum by Mr. Adamski.

SENATOR HATCH: Yes. I am asking if he made any reference in his memorandum to the allegation that Mr. Donovan travelled to Florida in January 1979.

MR. OLSON: My problem is that I don't understand whether you are asking him to examine Exhibit 13 with respect to that, or the newly-marked Exhibit 40.

EXHIBIT NO. 40

Pierson, Ball & Dowd
Ring Building
Street N.W.
ton D.C. 20036

TEL (202) 331-8566
CABLE ADDRESS "PIERBALL"

OKLAHOMA OFFICE
FIRST OKLAHOMA TOWER
SUITE 1310
210 W. PARK AVENUE
OKLAHOMA CITY, OKLA. 73102
TEL (405) 235-7666

COUNSEL
THOMAS H. DOWD
ROBERT B. HANKINS

LOWELL J. BRADFORD
RETIRED 1980

EX 40
Adamske
FII
8/19/82

May 26, 1982

Pg 2

FEDERAL EXPRESS

Leon Silverman, Esq.
Fried, Frank, Harris, Shriver
& Jacobson
1 New York Plaza
New York, New York 10004

Dear Mr. Silverman:

This will supplement my letter of May 21, 1982.

6. During the period that Raymond Donovan attended Notre Dame Seminary in New Orleans, September 1950 through January 1952, he purchased from a New Orleans drug store a pair of off-the-shelf reading glasses which were full sized with dark brown tortoise rims. During that period, Mr. Donovan was advised that it was not a good idea to become dependent on reading glasses and, to the best of his recollection, he did not use those glasses after departing Notre Dame Seminary. He did, however, have them in his possession in a drawer in his home. Neither he, his family nor his business associates recall that he wore glasses of any sort during the 1960's.

In 1971 or 1972, Mr. Donovan purchased from Dr. Weber's Optometrists in Maplewood, New Jersey, prescription reading glasses, which were of the half-moon type with black steel frames. Weber's does not keep prescription records longer than five years, and we are unable to verify this date or the type of glasses other than by recollection.

Mr. Donovan used the half-moon reading glasses until 1976, at which time he purchased from The Ultimate Spectacle a set of prescription reading glasses. In 1978 Mr. Donovan obtained from The Ultimate Spectacle bifocals with metal frames, of the type he

Exhibit 73

presently wears. (Attached is a statement from The Ultimate Spectacle.)

7. We have located in the records Universal charge forms issued by Delta Airlines indicating the issuance to Mr. and Mrs. Raymond Donovan of round-trip airline tickets from Newark, New Jersey, to Ft. Lauderdale, Florida. The tickets indicate that Mr. and Mrs. Donovan departed Newark on January 13, 1979 at 9:45 a.m. on Delta flight #137. These same records indicate that Mr. and Mrs. Donovan returned to Newark from Ft. Lauderdale on Saturday, January 20, 1979, at 1:10 p.m. on Delta flight #138. (According to the Universal charge form, these tickets were paid for by a charge on Mr. Donovan's American Express card. If desired by you, all of these materials can be furnished by Schiavone Construction Company.)

Neither Mr. nor Mrs. Donovan has any clear recollection that they left or returned exactly as indicated by these records, but neither do we have any evidence to indicate that they did not use the tickets as issued. We have attempted, through Delta Airlines, to get an absolute record of Mr. and Mrs. Donovan's travel during this period, but have been unsuccessful.

During the period that Mr. Donovan was in Boca Raton (which can be conveniently reached either from West Palm Beach or Ft. Lauderdale), he made arrangements for his niece and nephew, Mr. and Mrs. Peter Murray, whose address is 148 N.W. 8th St., Boca Raton, Florida, phone 305-391-3469, to attend the Superbowl in Miami. Tickets to the Superbowl were obtained through Schiavone Construction Company with the assistance of Mr. Woody Weiser, a partner of Raymond Donovan and Ronald Schiavone in the Sheraton Riverhouse Hotel at the Miami Airport. The tickets were delivered to Mr. and Mrs. Murray by Al Paradise of Schiavone Construction Company at the Sheraton Riverhouse on, to the best of our knowledge, Sunday, January 21, 1979. Mrs. Murray recalls that Mr. Donovan had given her $50 for dinner after the Superbowl. She and her husband placed a telephone call and spoke to Mr. and Mrs. Donovan in Short Hills, New Jersey, at 11:26 a.m. on Sunday, January 21, 1979. (If desired, we can furnish the telephone records substantiating this telephone call.) Mr. and Mrs. Donovan recollect calling Mr. and Mrs. Murray at the Murrays' home in Boca Raton the evening of Sunday, January 21, after the Superbowl, and Mr. Donovan recalls kidding the Murrays that he had seen them on television. (We have attempted to obtain telephone records for the Donovans' home telephone in Short Hills, New Jersey, but have been advised that these records are not maintained longer than six months.)

Leon Silverman, Esq.
May 26, 1982
Page Three

Mr. Donovan has no specific recollection at this time of what he did during this period in Boca Raton other than to stay at their home at 571 Phillips Drive. At no time during this period did he see William Masselli, and at no time during this period or any other period has Mr. Donovan ever visited Mr. Masselli's condominium, which we understand to be in Hollywood, Florida.

Sincerely,

PIERSON, BALL & DOWD

DB/gr

Dean Burch

DB:gr

Enclosure

cc: Honorable Raymond J. Donovan
Theodore W. Geiser, Esq.

SENATOR HATCH: No. I think the question is, if he knew that Donovan had, in fact, travelled to Florida, and if so, did he mention that in his memorandum, dated January 12, 1981.

THE WITNESS: I knew of the allegation that he had travelled to Florida for the Superbowl, and I didn't mention that in my January 12th, 1981 memorandum.

BY SENATOR HATCH:

Q Okay, now were you aware of this letter from attorney Burch, where, in Paragraph 7, it says, "We have located in the records Universal charge forms issued by Delta Airlines indicating the issuance to Mr. and Mrs. Raymond Donovan of round-trip airline tickets from Newark, New Jersey to Ft. Lauderdale, Florida. The tickets indicate that Mr. and Mrs. Donovan departed Newark on January 13, 1979 at 9:45 a.m. on Delta flight #137. These same records indicate that Mr. and Mrs. Donovan returned to Newark from Ft. Lauderdale on Saturday, January 20, 1979, at 1:10 p.m. on Delta flight #138."

Were you aware of that?

MR. OLSON: Was he aware of this letter?

SENATOR HATCH: That this in fact happened.

MR. OLSON: If it did?

SENATOR HATCH: Yes -- well, according to the attorney, he said it did.

MR. OLSON: Well, but --

SENATOR HATCH: That is my understanding. This is what the letter says. I have been reading right out of the letter, and Mr. Burch is Mr. Donovan's attorney.

MR. OLSON: Well, simply because -- well, Senator, we don't know what the facts are, simply because --

SENATOR HATCH: Well, I'm just asking if he does, does the witness know.

THE WITNESS: No, I don't know the specific details of that travel, if in fact it did occur.

BY SENATOR HATCH:

Q Do you have anything that would contradict this in any way?

A All I have, Senator, is the allegation that he went. I have no independent knowledge of any other facet.

Q If you had asked -- at one point, we feel, in the Committee, had you asked Mr. Donovan about this in 1981, he would have had to have told you that he was down there at that time. Did you ever ask him?

A We did not interview Mr. Donovan.

Q Okay. Do you know whether Mr. DeFilippis attended the Superbowl with Mr. Masselli?

A I have no independent recollection of that; he may have.

Q Well, I would refer you to Special Prosecutor's

Report at page 511 -- we will call this Exhibit 41 -- where, at the top of the page it does say that, "DeFilippis did attend the 1979 Superbowl with Masselli, he acknowledged." But you were not aware of that?

A (Perusing document.)

MR. OLSON: The record will reflect, Senator, that that is a statement that is contained at the top of Exhibit 41. It appears to be -- while it is not clear from the exhibit whether that is an incomplete portion of a sentence, it is certainly an incomplete portion of a paragraph, and the witness does not have the entire context.

SENATOR HATCH: All right.

(Exhibit Number 41 was marked for identification.)

SENATOR HATCH: This was, as I understand it, a statement by Masselli to the Special Prosecutor. Be that as it may, you can look that up.

BY SENATOR HATCH:

Q You weren't aware of it, in other words, that DeFilippis attended the Superbowl with Mr. Masselli -- or, were you?

A To my specific recollection now, I don't recall. It may have been so -- we may have received that allegation.

Q Sure. Do you know if you interviewed Mr. Masselli back then at all, when you had these allegations -- I'm talking

EXHIBIT NO. 41

FYI Admission JPA II 8/19/82

DeFilippis did attend the 1979 Superbowl with Masselli, he acknowledged.

Jack Napoli was a name totally unfamiliar to Masselli.[394] Masselli said that he could not have attempted to procure a union book for Napoli in 1961 because he was in prison without interruption from 1956 to 1964.[395]

iv. Follow-up Grand Jury Appearances (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. The Tumcon Recordings

i. Summary

In connection with the investigation leading up to William Masselli's conviction and imprisonment, court-authorized Title III microphone and telephone surveillance was conducted by Federal authorities for approximately six months, from January 5 to July 7, 1979 at Masselli's place of business in the Bronx, New York. A total of 857 tapes were about January of 1981.

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[394] Jack Napoli, in his interview with the Special Prosecutor on May 20, 1982, stated that he had known William Masselli since approximately 1961 when he obtained two union books from Masselli. He thought that Masselli would know him by the name of Jack Napoli.

[395] An agent of the Special Prosecutor ascertained, from contact with the United States Probation Office and the New York State Parole Board, that William Masselli was incarcerated at the Clinton Correctional Facility from April 1958 until May 1962.

A To the best of my recollection, we did not interview Mr. Masselli.

Q Did you know that Jopel was established as a Minority Business Enterprise so that Schiavone could use them as a subcontractor on a Federally-funded contract?

A No, I did not.

Q Okay. Isn't it necessary to an applicant investigation that you, quote -- to quote the guidelines, that is, Section 17-6.12 -- that you, quote "ascertain the degree of association and awareness on the part of persons under investigation of activities of questionable individual"?

Isn't that necessary in an applicant investigation?

A To ascertain the degree of association?

Q Right.

A I think we did that to the best of --

Q Or the activities of the questionable individual.

A As they pertained to the person under investigation for the applicant position.

Q Okay. As this is derogatory information that you uncovered, isn't it necessary for the field office in New York discovering the information to, quote, "verify it or disprove it", unquote?

A It is the responsibility of the office uncovering this type of information to attempt to verify it, or attempt to disprove it.

Q Did they attempt to do that? Did the New York field office attempt to do that?

A Yes, they did, Senator.

Q Okay. What did they attempt to do, because apparently, they didn't interview any of these people who cropped up as significant business or personal associations?

A They attempted to corroborate or disprove the allegations that were made by these individuals.

Q You mean by the informant individuals?

A By the informant individuals, that is correct.

Q Okay. But they didn't talk at all to any of the witnesses or any of the individuals the informants identified as unsavory associates of Mr. Donovan, or his business, or people who worked for his business?

A We talked to a lot of people, Senator. The people that we did not talk to, Mr. Masselli and Mr. DeFilippis, were alleged to be members of organized crime. The quality of their interview and the veracity of that interview might be in question --

Q So you thought it might be a waste of time to even talk to them?

A Perhaps, not a waste of time, but not reasonably productive.

Q Okay. On your Exhibit Number 19, page 2, dated January 12th, 1981, entitled, "Raymond J. Donovan", it says, "A review of the files of the New York Division of the FBI indicates Mr. Donovan, through his position with Schiavone Construction Company, Secaucus, New Jersey, has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources."

Now, I notice in your guidelines, it does say you should ascertain the degree -- in fact, it says, in these same guidelines we have been reading from, under Paragraph 1, "Ascertain degree of association and awareness on the part of person under investigation of activities of questionable individual."

In other words, a moment ago you said that you had ascertained the degree of awareness of Mr. Donovan, where your own report says you had not. Or at least, the FBI's report says you had not.

A I'm sorry, Senator, I don't follow that..

Q What that said was that you had not ascertained the degree of those associations. A moment ago, you said you had tried to ascertain the degree of those associations. So, the written report doesn't confirm what you have just said here. We are just trying to clear this up so that, hopefully, we get it over with.

MR. OLSON: I disagree with your characterization and the testimony where it said that they did attempt to make a determination.

SENATOR HATCH: Okay. So you are saying what the witness said is they did make an attempt to determine the degree of association, and then the report says they were unable to do so.

MR. OLSON: Well, at least, the January 12th report, as of that date, says that.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Now, to resolve this, it seems to me it would have been necessary to have interviewed Mr. Donovan. Did anybody do that on these matters, especially that January 12th, '81 memorandum and the allegations?

A We did not interview Mr. Donovan.

Q It seems to me that that could have clarified a lot of the problems. Is there any reason why you didn't interview Mr. Donovan since he was right here and would have been, I think, happy to have given the interview?

A In my professional judgment, I didn't think it was going to be reasonably productive.

Q Why? At least he could have denied it and said --

you know -- in fact, if we'd have known about this, we could have asked him the questions in the hearing, and he could have explained that there is no way, if that is the truth, that he had any associations with these people, and it would have certainly taken the cloud away, or at least, intended to remove the cloud that he has been living under ever since.

MR. OLSON: In fairness, Senator, I think that there was a January 23 report which contained references to allegations of associations by Mr. Donovan, business and social, with organized crime figures.

SENATOR HATCH: Which we did interrogate him on.

MR. OLSON: Which you did interrogate Mr. Donovan about on the record --

SENATOR HATCH: Of course, the one we are seeing, too, the 12th, is a lot more detail than we had on the 23rd.

MR. OLSON: Well, we might argue the extent to which it is a lot more detailed. There is a reference to a name or two of --

SENATOR HATCH: I think it is significantly more detailed.

MR. OLSON: That is a matter of argument..

SENATOR HATCH: Well, that's the way the people on our Committee feel. Now, we may be wrong, but we feel like some of the matters in that January 12th memorandum were very significant. Secondly, we didn't have it on January 12th, when we really had the first hearing, even though the folks at the FBI and the folks at the White House knew about it -- at least, knew about a lot of it -- and we could have gone right ahead on the 15th and marked Mr. Donovan out and nobody would have ever known --

MR. OLSON: The fact is, there was a hearing on January 27th, at which time --

SENATOR HATCH: That is true. At that time --

MR. OLSON: -- at which time the Committee had, particularly the second paragraph of the January 23 report, which referred to Mr. Masselli and referred to the Jopel Construction Company and referred to alleged associations with organized crime figures. And that was the subject of extensive questioning by the Committee.

SENATOR HATCH: However, we have pointed out the differences between the January 12th memorandum and what we had on the January 23rd, or, at least, some of the differences, and I think they are significant. Now, that's my characterization.

It seems to me that -- personally, you know, it is always easier to criticize in retrospect, and naturally, that is what part of this is. And I personally don't want to criticize anybody. I just want to get this thing resolved to the best of our ability and find out how we can do a better job in the future, working together, as the White House, as the FBI, and as the confirming entity up here. And that is basically all I want to do. On the other hand, I do want some of these questions answered as to why we did have so much difficulty in this case.

BY SENATOR HATCH:

Q It seems to me that if you had interviewed Mr. Donovan, that would be the only way the decision could be made, or the decision interview could be made, because Section 17-6.20 of the FBI guidelines requires that, quote, "Persons under investigation are not to be interviewed without FBI headquarters authority. If situation arises necessitating such interview, furnish facts to FBI headquarters for approval."

I would just cite that from the guidelines. Now, isn't it true that the FBI SPIN Unit runs the applicant investigation, not the transition team? Is that correct?

A That is correct.

Q Is there anything in Executive Order 10450, the Memorandum of Understanding between the President-elect and the Justice Department, the FBI guidelines for SPIN investigations, or any other writing or practice that provides that the President-elect or his designated representative may advise you on how to run an applicant investigation?

MR. OLSON: You referred to several documents,and I would like to put those in front of the witness before he endeavors to answer that question.

BY SENATOR HATCH:

Q Well, do you know or not? I mean --

MR. OLSON: Well, you referred to -- .

BY SENATOR HATCH:

Q -- Executive Order 10450 --

MR. OLSON: Are you asking him to answer that question without looking at those documents?

SENATOR HATCH: Sure, because I think he knows that these are the basic documents that you operate under.

MR. OLSON: You are talking about some lengthy material, and I think the record ought to be clear, then, that he is answering it without referring to those documents.

SENATOR HATCH: Well, that's fine, and he can have the documents, if he wants. You know, if he feels he needs the documents, we would be happy to provide them for him.

BY SENATOR HATCH:

Q But go ahead. If you can answer it without them, I'd appreciate it.

A I know of no document that indicates that the transition team of the White House has any input into the conduct of the investigation --

Q Or can advise you how to run an applicant investigation?

A Or can advise me how to run an applicant investigation.

Q I think that's right. Now, isn't it a fact that the investigation is supposed to go forward, unless you receive notice to discontinue it?

A That's right. Once the investigation is requested, we continue onward until we are told to discontinue.

Q Now, let me return to the teletype again. Do you know who transmitted that teletype?

A No, sir, I don't.

Q Did you consider the information in that teletype important, serious and/or pertinent? I might mention that Mr. Mullon did testify that the information contained in your memo of January 12th, '81 was important and serious and pertinent. And your memo says that the tape reference is pertinent, that you personally consider the information in that teletype important, serious and pertinent.

MR. OLSON: I will simply observe that you are characterizing testimony of a previous witness.

SENATOR HATCH: Right.

MR. OLSON: The testimony, of course, speaks for itself.

SENATOR HATCH: Sure.

MR. OLSON: You are asking the question of this witness of how he characterized it --

SENATOR HATCH: Yes, I think I fairly characterized it, but I am asking you how you would characterize it.

THE WITNESS: I would say that it was pertinent information in that it referred to this investigation of Mr. Donovan. It was certainly important. It was a significant turn in the investigation.

BY SENATOR HATCH:

Q Did you call the New York office to inquire why, if the information had been developed as of January 8th, 1981, you did not receive any notice of it until January 10th, 1981 in a teletype, and not by phone?

A No, I did not.

Q Did you discuss anything else, including the allegation contained in the teletype, with anybody in New York?

A At that time, I don't think I talked to anybody in New York.

Q Were you at the office on January 10th, '81 when the teletype came in?

A I believe the teletype came in on January 11th, 1981, and I was at the office on the 10th and the 11th -- and the 12th.

Q Do you know about what time on that Saturday you received the teletype?

MR. OLSON: Saturday was the 10th and Sunday was the 11th.

SENATOR HATCH: Yes, right. That is my understanding.

BY SENATOR HATCH:

Q Do you know --

A I don't know what time the teletype was received at FBI headquarters, but I saw it first thing in the morning when I got there.

Q On the 10th?

A On the 11th.

Q So you didn't see it until the 11th?

A I did not see it until the 11th.

Q Okay. Now, upon receiving that information, that teletype, what if anything did you do? Did you talk to anybody in New York? Did you try to get more confirmation or more information on it?

A I did not talk to anybody in New York, to the best of my recollection. I had a discussion with the contents of the teletype -- on the contents of the teletype -- with Supervisor Drake.

Q Was anybody else present other than you and Supervisor Drake?

A I don't recall the exact circumstances or location of the discussion, so I can't really state.

Q What was said at that time?

A I believe I instructed him to watch the case very closely and to make sure that the New York Division covered all angles on the information furnished and make sure they attempted to run out every possible aspect of the allegation, in an attempt to corroborate or disprove.

Q Now, you yourself knew that the Donovan confirmation proceeding was scheduled for the next day, on Monday?

A Senator, I don't keep track of the confirmation hearings. We are not notified by the Senate, nor are we notified by the White House.

Q So, were you aware that it was going to occur the next day?

A No, I was not, and I specifically recall that, because I was surprised to find out that a hearing had taken place, several days after it had taken place.

Q I see. It was important to notify Mr. Fielding, wasn't it, about this information?

A I considered it important.

Q Did you have any discussion about calling Mr. Fielding, and if you did, with whom, and what if anything was said?

A No, Senator. I did that on my own initiative.

Q You just called him yourself?

A That's correct.

Q Okay. Now, you didn't find out about it until January 11th, so you did not call him on January 10th, then; you called him on the 11th?

A Senator, I may have called him on January 10th. I talked to him during that time period several times a day.

Q But I mean with regard to this memorandum.

A Not to my recollection.

Q Now, where did you call Mr. Fielding? That was on a Sunday, when you finally found out about the teletype.

MR. OLSON: Do you mean where was Mr. Fielding?

SENATOR HATCH: Yes.

BY SENATOR HATCH:.

Q Was he at his home, or was he at the White House?

A I don't recall.

Q You'd have to call through the switchboard down there?

A I don't recall, and I am not even sure whether or not I spoke to him personally or if it was on the phone.

Q I see. Do you know about what time you did talk to him on January 11th, 1981, or whoever you talked to? You wouldn't have given that kind of information to anybody but him, would you?

MR. OLSON: Excuse me. Shall we answer the first question first?

SENATOR HATCH: Sure.

MR. OLSON: I am putting Exhibit 13 in front of the witness.

THE WITNESS: In answer to your first question, I have no independent recollection, but my January 12th memorandum indicates I talked to him at 2:45 p.m.

BY SENATOR HATCH:

Q On January 11th?

A On January 11th.

Q Okay. Do you know about how long that was after your conversation with Mr. Drake?

A No, Senator, I don't have any recollection of that.

Q Can you tell me any reason why you waited until 2:45 p.m. to call him, since you saw it in the morning -- if there is any?

A Not that I recall. I think that I had a lot of other teletypes to read that morning, and I may have placed the call earlier, and he may have just gotten back to me at that time, or perhaps I had a meeting with him at that time. I don't have any independent recollection.

Q Did that information alarm you, as to an FBI agent investigating a Cabinet level appointee?

A It caused me some concern.

Q Did you know where to locate Mr. Donovan, if you decided to call him, or to interview him? Was any effort made to find that out?

A I did not personally know where to locate Mr. Donovan, but that would not have been a problem.

Q When you chatted with Mr. Fielding, what exactly did you say, if you can recall, to the best of your recollection?

A I'm afraid that the best of my recollection is the January 12th memorandum. I know generally that I spoke --

Q Which memorandum, the one that went to him, or the internal memorandum that you had prepared?

A The internal memorandum.

MR. OLSON: Exhibit 13.

BY SENATOR HATCH:

Q Do you feel that you read that to him, the complete memorandum?

A It hadn't been authored yet, Senator.

Q Do you mean it hadn't been prepared?

A That's correct.

Q So you were basically reading information off the teletype, then?

A I don't think I could be characterized as reading the information, because the information was much too specific. I was paraphrasing the information.

Q But you basically covered what was on the teletype from a paraphrasing standpoint?

A The large issues, I covered. I did not get into specific detail.

Q I see. Did you discuss any other background investigation with Mr. Fielding in that conversation?

A I could well have, Senator. I don't have any independent recollection.

Q Did you tell Mr. Fielding that the information was corroborated?

A If you are asking if I used the word "corroborated", I have no recollection. If you mean did I tell him it came from more than one source, I would tend to think that I did, but again, I have no recollection now.

Q Okay. Now, the memo stating that the information was corroborated was only delivered to Fielding after the confirmation hearing, beginning on Monday; is that correct?

MR. OLSON: You are now referring to --

SENATOR HATCH: The memo of January 12th that was delivered to the White House, Exhibit Number 19.

THE WITNESS: Senator, I don't know what time this was delivered to the White House. The notation here indicates that I delivered it. It would have been not to the White House; it would have been to the office of the President-elect. I usually went there twice a day, and I don't know whether it was before your hearings or after your hearings. In fact, I didn't know your hearings were going on.

BY SENATOR HATCH:

Q I see. This was just one of the investigations you were making, and just one of the teletypes that you had to review that day?

A Yes, Senator, that is correct.

Q How many teletypes a day would you review?

A I don't know by number, but in those days, my morning teletype load was about three feet high.

MR. OLSON: "In those days", you are referring to January of 1981?

THE WITNESS: That's correct.

BY SENATOR HATCH:

Q Would that be 100 or more teletypes a day, or approximately --

A I would say it was easily 100 or more teletypes a day.

Q This particular teletype was a multiple-page teletype, right?

A That's correct.

Q At what time of the day did you mainly get your deliveries on teletypes? Was it in the morning or throughout the day?

A In the morning, you'd get the heaviest load of those teletypes that had come in after the close of business of the prior day and through the night. Throughout the day, they come routinely, as they are --

Q So it was a constant pattern of receipt?

A That's correct.

Q Did you tell Mr. Fielding, if you recall, the information that had been developed as of January 8th, 1981?

MR. OLSON: You are referring to Mr. Adamski's conversation with Mr. Fielding on January 11th?

SENATOR HATCH: Right.

MR. OLSON: And your question is whether or not he referred to a specific date in that teletype?

SENATOR HATCH: Yes; January 8th, 1981.

THE WITNESS: I have no specific recollection of that. I would tend to doubt it.

BY SENATOR HATCH:

Q Do you recall telling him that two independent sources of the New York Division have stated that the Schiavone Construction Company, in which Mr. Donovan is an Executive Vice President, is mobbed up?

MR. OLSON: Are you asking -- Senator, he has said several times he doesn't have an independent recollection of the conversation. Are you asking him --

SENATOR HATCH: I'm asking the best of his recollection.

MR. OLSON: -- whether he used those words, or --

SENATOR HATCH: Or words to that effect.

MR. OLSON: -- or communicated that substance?

SENATOR HATCH: Communicated that substance. Either -- those words, or communicated in essence those words.

THE WITNESS: I am sure I communicated that substance. Whether or not I used those words, I don't know.

BY SENATOR HATCH:

Q Did you tell Mr. Fielding either the substance or the actual words, quote, "One source indicates the upper management of the SCC is closely aligned with the Vito Genovese family of the LCN through SCC Vice President Albert Magrini"?

A I don't have any independent recollection. I would have communicated the substance of that information. I would probably not have furnished the name, Magrini.

Q Why wouldn't you have furnished the name, Magrini, since he was SCC Vice President?

A At that point in time, Senator, it was an allegation. Until we have some sort of corroboration or some specific need, we don't mention names.

Q Nevertheless, he was Donovan's Vice President at the company, and that was a link that was quite important. Could you have possibly given the name, Magrini, to him?

A I would tend to doubt it.

Q I might mention that his name was specifically mentioned on the only wiretap reference that you claimed you had. Were you aware of that?

A I'd have to review the reference. I may be.

Q So your present recollection is you don't know?

A No, I don't know now.

Q Okay. And did you tell Mr. Fielding that SCC, Schiavone Construction Company, was, quote, "also aligned with the Genovese family through its contacts with Jopel Construction, headed by William Masselli", unquote -- either the words or the substance?

A Again, I would have conveyed the substance, but I don't think in as much detail as you have just read.

Q Now, did you make it clear that it was through a close business contact, even through his own firm?

MR. OLSON: You are referring now back to --

SENATOR HATCH: To Magrini, Jopel, Masselli.

THE WITNESS: Again, I have no independent recollection, but I think that I would have told him that the allegation was that there were some organized crime ties to the Schiavone Construction Company.

BY SENATOR HATCH:

Q Did you tell him that Masselli is a self-admitted soldier in the Genovese family?

A At the time of this memorandum, I doubt that I named Mr. Masselli. I would have --

Q You would have at least mentioned that one of these people is a self-admitted soldier in the Genovese family?

A I would have characterized it that way.

Q Okay. Did you tell him that his New York source alleges that -- that this New York source or sources alleged that Mr. Donovan is acquainted with LCN members through Magrini and Masselli on a business and social basis?

A I would have probably told him that Schiavone is tied with the organized crime people on a business or social basis, but I don't think I would have been more specific than that.

Q Do you feel that you told him both on a business and a personal basis -- or, social basis -- or just either?

A No. It would have been both.

Q Did you tell him that Donovan had -- now this is Mr. Fielding -- did you tell Mr. Fielding that -- all of these questions have applied to your conversation with Mr. Fielding -- did you tell Mr. Fielding that Donovan had allegedly travelled from New York to Miami, to the 1979 Superbowl with Masselli and other LCN figures in the construction business?

A Again, Senator, I would not have named Mr. Masselli. I did provide Mr. Fielding with the substance of the allegation of travel. I would not have told him it was to the Superbowl, and I would not have told him it was in 1979.

Q But that he did travel with --

A Organized crime figures.

Q -- organized crime figures.

A That the allegation was that he travelled with them.

Q Yes. Did you tell Mr. Fielding that another New

York source, a former employee of the SCC, indicated that Mr. Donovan is an alcoholic?

A Again, it is in this memorandum, so I believe I did.

Q You believe you did?

A Yes.

Q Did you tell Mr. Fielding that the same other source stated that Mr. Donovan is a heavy gambler, and did you characterize, like the internal memorandum does, how heavy his gambling was?

A I would not have categorized the information as coming from the same source. I would have mentioned to him about the allegation of gambling, and I can't recall whether or not I furnished him with the allegation of the dollar amount.

Q Do you recall making him aware of the gambling allegation? It would seem to me that would be pretty important for an applicant investigation.

MR. OLSON: Your question is whether he recalls during this conversation making --

SENATOR HATCH: Yes, during any conversation, but particularly this one.

THE WITNESS: I feel sure that I provided him that information. Whether or not it was in this conversation or subsequent conversation, I can't recall.

BY SENATOR HATCH:

Q Did you tell Mr. Fielding what files you searched?

A I am not quite sure I understand that, Senator.

Q Did you tell him you searched the central files of the FBI, the indices of the New York office and the Organized Crime Information System?

A No, Senator. I may have told him that we searched the central files of the FBI. I doubt that I would have extended that to the New York office files or the Organized Crime Information System.

Q Did you tell Mr. Fielding that your search disclosed one pertinent reference to Mr. Donovan which is a Title III overhear between William Masselli and his son Nat Masselli?

A I told Mr. Fielding, to the best of my recollection, and I have to go by what is here that --

MR. OLSON: When you say you have to go by what is here, for the record, you are referring to Exhibit 13?

THE WITNESS: That is right. That Donovan's name was overheard on one occasion in a conversation between other people and it was on tape.

BY SENATOR HATCH:

Q You would have told him that?

A I would have told him that it was an overhear. Now, how specific I was in telling him, I can't recall.

Q Would he have understood you to say -- of course, I know you can't characterize that.

Would you have expected him to understand you to have said that this was a wiretap?

MR. OLSON: You are asking for the witness to --

BY SENATOR HATCH:

Q Did you make it clear enough that anybody would have known it was a wiretap or an overhear?

MR. OLSON: The difficulty is he said several times he does not have a specific recollection of the conversation.

SENATOR HATCH: I am asking if he knows whether he did.

THE WITNESS: While I can't say what I specifically said, in my mind --

BY SENATOR HATCH:

Q In other words, you don't remember?

A In my mind, I thought I conveyed the information.

Q Okay.

Your best recollection is that you did in substance tell Mr. Fielding that there was a wiretap involving the mention of Mr. Donovan's name?

A I believe I conveyed that information.

Q Did you tell Mr. Fielding that -- excuse me.

Did you tell Mr. Fielding that Mr. Masselli was going to pick up Ronnie Schiavone and Raymond J. Donovan and take them to a social function or that members of organized crime -- that alleged members of organized crime were going to do that?

A I doubt that I would have furnished him that information.

Q Did you tell Mr. Fielding that the investigation was continuing in New York, Newark and Miami?

A I am sure I would have told him that.

Q Did you tell Mr. Fielding that none of the New York sources was able to provide any information that shows any specific criminal misconduct on the part of Mr. Donovan?

A I am sure I did.

Q You asked Mr. Fielding whether he wanted Mr. Donovan interviewed, is that correct?

A That is correct.

Q And for what reason did you ask him that?

A Simply to seek his opinion.

Q Did you tell Mr. Fielding that without further investigation you would not be able to determine the degree of Mr. Donovan's association and knowledge with these La Cosa Nostra figures?

MR. OLSON: Without further investigation?

BY SENATOR HATCH:

Q Without further investigation, you would not be able to determine, you know, the degree of his association, that is Donovan's association, with knowledge of these La Cosa Nostra figures, alleged La Cosa Nostra figures?

MR. OLSON: I am not sure I understand the question.

BY SENATOR HATCH:

Q Well, did you indicate that you needed to do further investigation in order to determine the degree of association?

MR. OLSON: I still don't understand the question. The witness has testified that he indicated that the investigation was in fact continuing.

BY SENATOR HATCH:

Q Well, I guess I am referring to chatting with Mr. Donovan himself.

MR. OLSON: You are asking about any interview of Mr. Donovan?

SENATOR HATCH: Right.

THE WITNESS: Now, I am not sure I understand the question. I offered Mr. Fielding -- I didn't offer. I solicited his opinion as to the interview of Mr. Donovan. I told him that the investigation was still going on.

BY SENATOR HATCH:

Q And what did Mr. Fielding say?

A He acknowledged that he heard me, I presume.

Q Do you know if Mr. Fielding mentioned the fact that Donovan's confirmation hearing was scheduled for the next day?

A I can't recall but I doubt it.

Q Have you seen the statement of Mr. Fielding, dated June 9, 1982, regarding your conversation with him of January 11, 1981?

We will mark this as Exhibit No. 42.

(Exhibit No. 42 was marked for identification.)

BY SENATOR HATCH:

Q Have you seen that before? You might want to read it if you haven't seen it before.

MR. OLSON: Can we take a brief break while he is doing that?

SENATOR HATCH: Sure. Let's take a brief break.

(Short recess.)

SENATOR HATCH: Let me ask you this, something I really didn't take time to clarify yesterday, have you been sending Mr. Silverman the transcripts?

MR. OLSON: We sent him Volumes 1, 2, 3 -- we have

EXHIBIT NO. 42

Ex 42
8/19/82

Statement by Fred F. Fielding, Counsel to the President
June 9, 1982

[Please excuse the lack of a personal response. Mr. Fielding is suffering from a strep throat and barely able to talk. He has approved the following statement:]

On January 11, 1981, the FBI, in the course of normal preliminary reporting involving several background investigations being conducted for the Presidential transition, telephoned Fred F. Fielding to advise that one of its field offices had received a general allegation that some "hoodlums" reported that Raymond Donovan had been invited to or had attended a social event or events with reputed "crime figures." At that time, Fielding was Conflicts of Interest Counsel to the Transition Office.

The agent who spoke to Mr. Fielding stated that there was nothing to substantiate this allegation, but that the FBI would follow-up on it to the extent possible. There was no mention that the allegation was based on a wiretap, and the FBI has subsequently confirmed that Fielding was never so advised. The agent also did not express serious concern about the information, reporting it instead as merely one of a series of allegations that field offices had received about Mr. Donovan.

Based on the agent's report, Fielding indicated, in response to a question, that it was his personal view that little purpose would be served by interviewing Mr. Donovan about this allegation at th time, given the absence of confirming facts or any suggestion of criminal wrongdoing, but that the future course of the investigation was a matter for the FBI to determine. Obviously, no effort was made to "direct" how the FBI should conduct its investigation, in this or any other case.

The next day, the FBI provided an interim written report, which was subsequently turned over to the Senate Committee. This January 12, 1981, report indicated that allegations of close personal and business ties with unnamed crime figures had been received, but stated that the degree of association had not been determined and that no information indicated any criminal wrongdoing by Mr. Donovan. The FBI background investigation of Mr. Donovan continued, and on January 23, 1981, a more complete report was submitted. The January 23 report amplified on the January 12 report, and was also made available to the Senate Committee.

Throughout the investigation and the Senate confirmation hearings, the Transition Office (and later, the White House) communicated and worked closely with the FBI and the Senate Committee. There was never any effort to curtail any relevant inquiry by the FBI into any aspect of its investigation of Mr. Donovan; to the contrary, both the White House and the Senate Committee wanted all relevant information to be made available as soon as possible, so that the confirmation hearings could be conducted and completed as soon as possible. Indeed, there was obviously no reason for seeking to curtail investigation of relevant allegations about Mr. Donovan, since the White House had to determine whether the nomination would go forward and the Senate had to determine whether it should be confirmed. The responsibility for the investigation itself was solely, and properly, within the purview of the FBI.

It is acknowledged by the FBI that, until recently, neither the White House nor the Senate Committee was told of the existence of the so-called "Masselli wiretaps"; however, it is apparent now that some information derived from such a wiretap was conveyed in a general sense, without identification of its source, both to the White House and the Senate Committee in January, 1981.

sent him all of them.

SENATOR HATCH: We are going to have to clarify that then. I think the Committee should send the transcripts. What we need is we need a letter from Mr. Silverman requesting the transcripts. Let's do this procedurally. We will take the responsibility of submitting the transcripts and ask him not to refer to the transcripts until we get a letter and until we submit the transcripts to him.

Will you do that for us? I want this on the record.

MR. MINTZ: We sent them to him with the understanding it was an interim procedure.

SENATOR HATCH: I think it is better for us to do it right away and that is for him to write us a letter requesting them. Then we will take the responsibility of sending them to him.

MR. MINTZ: We will take care of that.

MR. OLSON: And we will not send him today's.

SENATOR HATCH: We will appreciate that but we will make sure he gets them if he requests them. Okay.

BY SENATOR HATCH:

Q You have gotten through reading that statement?

A I have read Exhibit 42. I have not seen this statement in this form before. I think I saw it in the press though.

Q You will notice in that statement -- Mr. Fielding's statement implies that you did not identify the office once the allegation originated.

Now, did you advise him that the allegations came from New York, do you recall?

A I think probably not.

Q Mr. Fielding stated that you advised him of "a general allegation that some hoodlums reported that Raymond Donovan had been invited to or had attended a social event or events with reputed crime figures."

Is that pretty close to what you said or do you agree that is what you said?

A I am not sure that is what I said, but I think it could be boiled down to that.

Q Okay.

Mr. Fielding makes no mention of any reference to the business associations with organized crime through a Magrini or a Masselli.

Did you advise Mr. Fielding of the business contacts? I think you said you did.

A I advised him of business contacts, yes --

Q Without mentioning the names?

A Without mentioning the names.

Q Did you use the term "hoodlums" that Mr. Fielding placed in quotes in his statement?

A I don't know, but hoodlums is not one of my terms.

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I might have said hoods or bad guys.

Q Are you the only agent that spoke to Mr. Fielding on January 11, 1981, about Donovan, if you know?

A I think so. I don't know.

Q In other words, I think that question is implying -- asks you to tell me whether there was any other contact.

MR. OLSON: Of which he knows.

SENATOR HATCH: Of which he knows. And your answer is no?

THE WITNESS: That is correct.

BY SENATOR HATCH:

Q Mr. Fielding's statement says that the agent that spoke to him said "There was nothing to substantiate this allegation."

Did you say that?

A Again I am not sure if I would have used the term substantiate, but I would have told him that there was no indication at this point in time of any criminal wrongdoing or misconduct on the part of Secretary Donovan -- Mr. Donovan.

Q However, the allegations were unverified at this point?

A That is correct.

Q Mr. Fielding stated that "The agent also did not express serious concern about the information reporting it;

instead is merely one of a series of allegations that field offices had received about Mr. Donovan."

Is that correct?

A I think I was concerned but not to the point of paralysis. It was just something that had to be further investigated.

Q I could ask the next question what would cause you to be concerned to the point of paralysis.

If you didn't express real serious concern about the information, why did the report given to Fielding the very next day state that it was corroborated?

MR. OLSON: Exhibit 19?

SENATOR HATCH: Exhibit 19. It is in that second paragraph, bottom line, where, "This information was corroborated by independent interviews of confidential sources."

THE WITNESS: What that is intended to convey is that the information came -- the same information, the same general type of information, came from more than one source.

BY SENATOR HATCH:

Q O.K. Now Fielding stated:

> "There was no mention that the allegation was based on a wiretap."

You are aware of that after having read that exhibit. Is that right?

A That was his understanding.

Q But your recollection is that you made it pretty clear this was a wiretap?

A I had thought I had conveyed that message.

Q He states that the FBI has so confirmed that he, Fielding, was not advised of the wiretap. So there is a difference between what you are saying here, that you thought you had told him, and what he felt he had received.

MR. OLSON: I think it is also on the record, Senator, that the witness does not have any independent recollection of his conversation and relies upon Exhibit 13 for his memory of it.

BY SENATOR HATCH:

Q Well, let me say this: One of the problems is that a lot of people believe that you did tell him because there is no harm about telling about a wiretap as long as the detailed information is not given and yet Mr. Fielding does not seem to recall that you mentioned a wiretap.

Now has the FBI ever confirmed that Fielding has not been -- or was not advised of a wiretap at that time?

MR. OLSON: You are asking -- I am not sure I understand the question. You are asking --

BY SENATOR HATCH:

Q Did the FBI ever confirm in any way that you did not advise him of a wiretap?

MR. OLSON: If you know.

THE WITNESS: I don't know but I would tend to doubt it since I am the source of --

BY SENATOR HATCH:

Q Basically what you are saying, to the best of your present recollection, that you basically told him that there was a wiretap upon which Mr. Donovan was mentioned?

A That is correct.

Q Your answer was "That is correct"?

A That is correct.

Q O.K.

A However, I might add, Senator, that I might not have used the word "wiretap."

Q What would you have used?

A "Tape."

Q Had you worked with Mr. Fielding a lot?

A During that period of time -- prior to this transition I did not know Mr. Fielding. We had a business relationship during this period of time. We had frequent contact.

Q What kind of a business relationship did you have?

A Just the business relationship of the --

Q Between the FBI --

A -- to the transition team and to the White House subsequent.

Q So you are saying that you would have either used the word "wiretap" or "taped conversation" but anybody who is sophisticated would know -- even unsophisticated would know, that means a wiretap.

MR. OLSON: I object to that, Senator. I don't necessarily agree with you. The word "tape" does not mean "wiretap" to a lot of people, not necessarily.

SENATOR HATCH: I think it does when the FBI mentions it.

MR. OLSON: Well, there are tapes --

SENATOR HATCH: To a general counsel at the White House that is asked to look at these.

MR. OLSON: Well, I disagree with you. There are videotapes, there are tapes strapped onto a body, there are tapes that are contained in a room on that kind of a tape recorder. The word "tape" does not mean "wiretap."

BY SENATOR HATCH:

Q But one way or the other you said -- you told Mr. Fielding either this was part of a wiretap, an overhear, or a taped conversation?

A It was my belief that I had conveyed that Mr. Donovan's name had been mentioned on a wiretap.

Q Or some sort of electronic surveillance?

A That is correct.

Q Were there any other allegations you informed Mr. Fielding of?

MR. OLSON: On January 11?

BY SENATOR HATCH:

Q Let me go back a step.

Did you tell Mr. Fielding, as shows up in paragraph 3 of the Fielding statement the last sentence;

> "The agent also did not express serious concern about the information reporting it instead as merely one of a series of allegations that field offices had received about Mr. Donovan."

Did you -- is that a fair characterization of what you expressed?

A I am a little unsure of what "serious concern" is. I was concerned because this is not the type of information that normally develops in the background of a Cabinet appointee. But again --

Q Do you feel you conveyed that concern?

A Well, I am trying to explain that concern, Senator. It was too early to be anything more than referring that information. I knew additional investigation had to be conducted and we had additional avenues to pursue prior to making any determination as to what degree of concern we should have.

Q But you certainly indicated some concern to him, that this is not normal applicant investigation material?

A I certainly indicated that.

Q O.K. Did you tell him actually that this was just one of a series of allegations?

A I don't think I told him it was one of a series of allegations. I think the context of my conversation indicated it was one of a series of allegations.

Q If so, what were the other allegations? You see, in that paragraph it says, "... merely one of a series of allegations that field offices had received about Mr. Donovan."

What were the other allegations?

A The other allegations I would have conveyed at that time are those set forth in Exhibit 13 and it doesn't come from field offices. It comes from one field office. Those are the ones we have discussed previously.

Q In the January 12, '81 memo, you said Mr. Fielding stated that there was no need to interview Donovan because there was no criminal misconduct. Do you recall that?

A Senator, I believe what my January 12, 1981 memorandum, Exhibit 13, says is Mr. Fielding was asked if he wished Mr. Donovan interviewed concerning these allegations and Mr. Fielding stated he did not wish Mr. Donovan interviewed by Bureau agents at this time because it would serve no purpose since there were no specific allegations of criminal misconduct.

Q That is basically what Mr. Fielding said to you?

A That is what I have recorded here. That is what --

Q Do you recall that?

A That is my recollection.

Q Mr. Fielding stated that he expressed the view that there was no need to interview Mr. Donovan in part because of the absence of confirming facts. Would you say that is a fair characterization?

A I am not sure what he means by "the absence of confirming facts." But there were no allegations that we would have been able to prove or disprove firmly.

Q Mr. Fielding states that he made no effort to direct the FBI how to investigate. Is that correct? Did he give you any suggestions on how to investigate or otherwise?

A No. Mr. Fielding did not give us any suggestions as to how to investigate.

Q Now your memo says that, number one, a search of the central files of the FBI; two, the indices of the New York office; and three, the Organized Crime Information System, OCIS, disclosed that reference to Mr. Donovan on the tape.

Now was that information located in each of the three places, two of them, one of them, if so, which one; when was it first discovered, by whom and for what reason wasn't it disclosed before? Those are a lot of questions and I will be glad to start them from the top again.

Was it in all three places, two of them or just one of them? And when was it first discovered?

A To the best of my knowledge and recollection, the information was located in the New York office. However, it was not located in general indices.

Q Was it in the OCIS?

A For a long period of time I thought so but I am advised that it is not in OCIS but it was in the log, independent logs of an agent in the New York Division.

Q I see. Do you know when it was first discovered and who discovered it?

A Prior to 1-10, no, and I don't know who discovered it.

Q What was the name of the agent, do you know?

A I am not sure that I know the agent who actually discovered it. The agent who had the case at the time I think or possibly had supervision of the case was Jim Moody.

Q For what reason wasn't it disclosed before?

MR. OLSON: When you say "For what reason wasn't it disclosed before," you mean disclosed to Mr. Adamski?

SENATOR HATCH: Yes, or to anybody else, for that matter.

MR. OLSON: Well, if it was an existing record, it obviously was disclosed to those people involved.

SENATOR HATCH: But I am talking about anybody investigating Donovan.

BY SENATOR HATCH:

Q See, we had had the December 31 investigation to January 5 which had been favorably completed. So to anybody doing that or to you, why wasn't it disclosed before?

MR. OLSON: You are asking why it wasn't found and imparted to Mr. Adamski or anyone working for him.

BY SENATOR HATCH:

Q If you know.

A As far as I am told, the information was not in the general indices of the New York office but it was in the independent logs of this particular agent. If it was Moody, I am not sure that it was, and he recognized the name from a newspaper account and searched this independent log. I don't know when he did that but I would tend to think he furnished it to us as soon as --

Q As soon as he found it?

A -- he found it.

Q There has been an OPR investigation about the way the FBI handled the information. Do you know what it has concluded is the reason?

A The reason we handled the information --

Q The way it was or why?

A No, I am not aware of the conclusion of the OPR report.

Q Can you find that out for us, if there is a conclusion in that report?

MR. OLSON: We will follow the procedure that we determined yesterday, that we will have a letter from you setting forth these things.

BY SENATOR HATCH:

Q O.K.

Your January 12, 1981 internal memo concludes by saying that investigations of these allegations were continuing in New York, Newark and Miami. Can you tell us what investigation was actually conducted in each of those places?

A Without having the file in front of me, investigation at New York and Miami was to attempt to corroborate Mr. Donovan's trip to Florida, his association with organized crime figures as alleged, contacts with informants to verify that same type of information. In Newark I believe it was just running out additional leads at that point in time.

Q Your January 12, 1981 internal memorandum states that two independent sources of the New York Division furnished information about alleged organized crime connections. The January 12, 1981 memo to Mr. Fielding attributes the information to a review of the files of the New York Division which was then corroborated by independent interviews of confidential sources.

Now which of those is more accurate?

MR. OLSON: I am not sure I understand what you mean by "more accurate." You mean more detailed?

BY SENATOR HATCH:

Q "More accurate" actually. The internal memo states that two independent sources of the New York Division gave the information about the alleged organized crime connections. Then the January 12, '81 memo to Mr. Fielding attributes the information to review of the files.

Now did these come from two or more sources or did they come from a review of the files or was it both?

MR. OLSON: I think the question is somewhat unfair because you are taking, Senator, the first sentence of the second paragraph under "Details" in Exhibit 13 exclusively and not referring to the balance of the material contained in Exhibit 13, whereas Exhibit 19 is a summary of what I think purports to --

SENATOR HATCH: All I am asking is which do you think -- maybe I will rephrase it in a leading question.

BY SENATOR HATCH:

Q You have testified that there were independent sources of the New York Division that furnished the information and that it wasn't really a review of the files.

MR. OLSON: Well, there is a reference to a review of the files on the second page of Exhibit 13.

BY SENATOR HATCH:

Q But the problem is that Fielding didn't see that and isn't that one of the problems?

MR. OLSON: I don't know that it is a problem. You may characterize it that way but the question that you asked implied that there wasn't a review of the files in Exhibit 13.

SENATOR HATCH: I also asked could it be that both are true. You had independent sources plus a review of the files --

MR. OLSON: Well, the documents speak for themselves as to what they contain --

SENATOR HATCH: I am asking what he feels is the case.

MR. OLSON: As to which is more accurate -- I am disputing --

SENATOR HATCH: Well, it may be neither is. I don't care what he says. I just want to know what his opinion is.

MR. OLSON: Well I think the question is ambiguous.

BY SENATOR HATCH:

Q Well, go ahead and answer it if you can.

A I think the most accurate answer is that it is both. The paragraph that says a review of the files of the New York Division of the FBI in my mind would pertain to the information that was excerpted from the wiretap in addition to the information derived from the two sources.

Q I see. O.K.

Now did you consider -- when I say "you," I mean the FBI, did they consider the original informant or informants a reliable source or sources?

A Yes, Senator.

Q O.K. Did the FBI -- did you initiate the contact or did the agent -- excuse me. Let me rephrase that.

Did the informant initiate the contact or did the agent initiate the contact?

A In this circumstance in New York, I don't know, Senator.

Q Can we find that out? I would like to know the agent, if you know.

A I don't personally know.

Q Would you find that out also?

MR. OLSON: There is going to be, as I understand it, a series of written questions that deal with these subjects.

SENATOR HATCH: Right. We will give you a letter on that. I think there will be a list of items we would like you to find out, that we have mentioned during the sworn statement, questioning and answering. I don't know that we are going to ask you any more questions but we will ask you to provide certain items.

MR. OLSON: They sound a lot like questions.

SENATOR HATCH: O.K.

BY SENATOR HATCH:

Q Did you have any subsequent communications other than those you have already described with the New York office after you received the January 10 teletype?

MR. OLSON: Relative to Mr. Donovan?

SENATOR HATCH: Relative to the Donovan investigation.

THE WITNESS: I may have Senator, I don't recall.

BY SENATOR HATCH:

Q You don't recall with whom you had any subsequent communications?

A No, Senator, but I would tend to think that my contacts with New York would have been limited. That would have been done by the supervisor handling the case.

Q Now who would that have been?

A Michael L. Drake.

Q O.K. Do you know if the original informant was recontacted for further information or informants because I don't know whether there are one or more?

A I have no personal knowledge of that. I would think that he, she, may have been or would have been.

Q Would that be in that investigative file that you were referring to earlier, would the answer to that be? Would you check the file to see?

A It would not -- I don't think it would be in the

Special Inquiry file. It may be in the subsequent Ethics in Government file.

Q Would you check that for us and there may be some subsequent informant form that was filled out. Will you check that?

MR. OLSON: That will be a part of the --

SENATOR HATCH: That will be part of our request, yes.

BY SENATOR HATCH:

Q Do you know if this informant or these informants were subsequently prosecuted?

A No, I do not personally.

Q O.K. The information that is in the Ethics in Government file, if any, could that have been taken out of the original SPIN file and given to the other file?

MR. OLSON: You mean physically removed and --

SENATOR HATCH: Sure, or otherwise transferred.

THE WITNESS: I can't speak with authority on this but it is my understanding that a copy of everything that was in the SPIN file is now also in the Ethics in Government file.

BY SENATOR HATCH:

Q So they should be basically the same files as far as this information --

A As far as SPIN --

Q -- this information is concerned. O.K.

Were any of the so-called informants -- let me just strike that.

Do you know if the information that Masselli was a soldier -- was it obtained from a tape, from one of these overhears?

A I don't have any personal knowledge of that.

Q Have you seen the chronology of contacts or index of documents furnished to the Committee by the Department of Justice concerning the contacts between the FBI and the Transition Team?

Have you had a chance to review that and did you help to prepare it?

MR. OLSON: To make sure we are referring to the same document, because I think there were another set of what appear to be a chronology --

SENATOR HATCH: That is Exhibit 16-A.

BY SENATOR HATCH:

Q Did you help to prepare that?

A Senator, I am not quite sure. I may have provided some of the information that is referred to here, but I certainly didn't author the document.

Q Do you know if that document is basically accurate? Mr. Mullen indicated that you would know.

MR. OLSON: I will ask him to read it very carefully in light of that question.

(Pause)

THE WITNESS: Senator, as it pertains -- as this document, Exhibit 16-A, pertains to things that I participated in, it appears to be accurate.

BY SENATOR HATCH:

Q Now, you indicated yesterday there was an additional meeting between Meese, Fielding and Revell that is not on -- Meese, Webster and Revell that didn't appear to be mentioned on here.

Is that correct?

A I don't think I referred to any meeting between Meese, Fielding and Revell. I think what I referred to was a meeting of Fred Fielding, Webster and Revell.

Q Do you know when that took place?

A In the early part of December, but I don't have a recollection of the specific date.

MR. OLSON: To the extent that your question implies that Exhibit 16-A purports to be a comprehensive chronology of all events relative to the Donovan investigation, I think that presupposes that that is what this document purports to be, and I do not think that it does and I don't think at any time that was ever represented to be that.

SENATOR HATCH: Okay.

I might add that the request that we made was for all contacts. So it was intended by us to be a comprehensive chronology.

MR. OLSON: Senator, I am not sure which letter you are referring to. That is why I think it is important that we deal with these requests for information or factual matters in writing so that we can respond directly to them so we can avoid --

SENATOR HATCH: This was a response to a written request.

MR. OLSON: I am sure that it was a response -- in response to a written request. I don't think that -- we want to be as responsive as we possibly can and directly and fully and comprehensively responsive to your questions to the extent that we are able to do so. But I do not understand this document to be responsive to a request for a chronology of all contacts of any sort.

SENATOR HATCH: Well, we did. I am not making a charge here. I am just making a comment. We thought that is what it was. We will get a copy of that letter making that request and make it a part of the record.

But then if it is not an accurate chronology, what do you think it is and what was the purpose of preparing it?

MR. OLSON: My copy was attached to certain other documents. The letter that was attached to Exhibit 16 itself states that it is in further response to a letter by you, dated June 10, 1982, to Director Webster, requesting certain documents concerning the FBI's background investigation of Raymond Donovan.

I believe that this was an attempt to prepare for your convenience a summary and organization of the documents being furnished in that letter, along with that letter.

THE WITNESS: It may clarify things to recall, Senator, that the meeting between Director Webster and Mr. Fielding and Mr. Revell was not in regard to the Donovan matter. It was in regard to establishing liaison during the transition.

BY SENATOR HATCH:

Q That is good to get clarified.

Is your January 12, 1981, memorandum basically a summary of the teletype, dated January 10, 1981, which was attached to the memo?

A It is a broad summary, yes.

Q Did you discuss the contents of the actual teletype with Mr. Mullen?

A I don't think I had any discussion with Mr. Mullen during that period on the facts of the teletype.

Q How many pages long is the teletype?

A I don't recall, Senator.

Q You testified that the memo -- did you discuss it with anybody else, if not with Mr. Mullen?

A I believe I discussed it with the case supervisor, Mr. Drake, Assistant Section Chief Joe Domzalski, Section Chief Joe Schulte. If I discussed it with anybody else, I can't recall.

Q Can you tell us what was said in any of those discussions?

A Basically with regard to supervisor Drake, I just told him to keep a close watch on development of this information and ensure that New York and any other offices participating in the investigation based on the information furnished by New York conducted a thorough and exhaustive investigation of allegations, facts, circumstances of whatever surfaced, and to keep me advised of it.

With regard to my conversations with Mr. Schulte and Mr. Domzalski, that probably would have been limited to notifying him of the substance of the allegations and telling him that I had issued instructions that the investigation be closely followed.

Q Okay.

You testified that the memo is a summary of the teletype. Does the teletype contain any other information not contained in your memo summarizing the teletype?

In fact, let me do this. As I understand it, the FBI is going to put together a letter giving us as much general information about the teletype as they can that may be in addition to your memorandum of January 12th. Why don't I defer questions on that until that letter is received.

MR. OLSON: May I have a moment?

SENATOR HATCH: I understand that letter will be received tomorrow or late today.

MR. OLSON: May I have a moment?

(Pause)

MR. OLSON: Mr. Chairman, we would like to discuss that with you off the record. The representatives from the FBI are here. We will discuss that with you. With respect to whether there will be a letter of what --

SENATOR HATCH: Well, we have discussed it off the record.

MR. OLSON: I think we have discussed it and I think it is best to continue that discussion off the record.

SENATOR HATCH: We will continue to do that. We will come back to these questions later if we don't have satisfaction from the FBI.

BY SENATOR HATCH:

Q Now, did you receive any other teletypes from New York as a result of the continuing investigation referred to in your January 12th, '81, memo?

A I am sure we did, Senator.

Q Regarding Donovan?

A Regarding the Donovan investigation, I am sure we did.

Q I would like to see those also, if we can, or at least isolate them and tell me if I can see those.

Did you receive any teletypes from Newark?

A Yes, we did, Senator.

Q I would like to see those as well or receive reason why I can't.

Any teletypes from Miami?

A Yes, we did, Senator.

Q And I would like to review those as well, and if it is possible to give them to us, we would like to have them given to us. If not, I want to see them personally.

MR. OLSON: Well, we will respond to that when we receive the written request.

BY SENATOR HATCH:

Q Do you know when you received these additional teletypes and how many there were?

A No, I don't, Senator.

Q Do you have any idea how many of them were from New York?

A No, I don't, Senator.

Q Could it have been more than two?

A It would have been more than two.

Q It would have been.

How about Newark, more than two?

A I am sure more than two.

Q How about from Miami, more than two?

A I am not sure from Miami. It was more than two.

Q It would be at least one, maybe two?

A It would be at least one.

Q Okay.

When did you receive those, subsequent to the teletypes that we have been talking about that formulated the basis of the January 12, 1981, memorandum?

A Yes.

Q Okay.

Now, it seems to me it is important for us to have those if we can. So you got this letter out today.

Now, I think this is a good point to break. I have to go to a Committee markup. Now, I believe I will be here tomorrow. So, if we can, is it convenient for you to meet again tomorrow?

MR. OLSON: Just a minute, Senator.

SENATOR HATCH: We may be in all night. Maybe we can meet later tonight.

MR. OLSON: Can we get back to you this afternoon, Senator, as to whether we can be here at the same time tomorrow morning.

SENATOR HATCH: I would like to see, if we start on the recess, it would be great if we could finish with you, Mr. Adamski, before we go. It may be later, if we are going to be in late tonight, it may be to your advantage and to all of our advantage to meet again later today and see if we can complete your discussion because I don't know that it would take too much longer, probably two, two and a half, three hours. We are moving along pretty well.

MR. OLSON: Why don't we wait to hear from your Committee staff with respect to when it is next possible.

SENATOR HATCH: I think the best possible time will be tomorrow morning unless we are up all night. If we are up all night and it is not too inconvenient for you, it might pay to try and, you know, have another one of these sessions after 6 o'clock, you know, when you basic work is done and our work is done.

MR. OLSON: We would have to check to see if there are any other conflicting commitments, and I think probably the best way to do that would be to hear from your representative when you have an idea as to when your preferences would be.

SENATOR HATCH: Okay.

Well, I understand. I would like, in any event, to go tomorrow morning if we are not up all night.

MR. OLSON: If we are talking about tomorrow, are there any times during the day tomorrow that would be possible other than the 7:30 schedule that we have been meeting?

SENATOR HATCH: It is about the only time I have ever had to go -- let's check it out and get with you, but we would prefer -- is the 7:30 time difficult for all of you?

MR. OLSON: That is what I would like to check out.

SENATOR HATCH: This is when I am awake.

MR. OLSON: I think we will respond when we hear a bit more from you this afternoon.

SENATOR HATCH: Let's do it this way. Let's tentatively set it for 7:30 tomorrow morning to go as long as we can until we finish Mr. Adamski. We will continue to consult with you throughout the day whether we can do it later today or in the middle of the afternoon or whenever. I have got a conference on job training that starts this afternoon, but I don't know whether we will get a quorum. But we will try to work it out.

But I do think it is important that we finish Mr. Adamski before this recess occurs, and that allows both sides an opportunity to go through -- or all persons. I don't think there are sides here, but all persons to go through what has been done and allows us to get the material to Mr. Silverman and allows us, of course, to make the determination whether we want to interrogate anybody else at that point.

MR. OLSON: There will be some things that I would have to look into before I can let you know one way or the other as to whether we can be here at 7:30.

SENATOR HATCH: If not, I would have to come back from Utah in order to get it done, and I would like to get it done.

MR. OLSON: Well, we will respond later today.

SENATOR HATCH: We may also be here Saturday, which is another potential time. But if we can, let's tentatively set it for tomorrow morning at 7:30 and try and work out the time.

MR. OLSON: We will respond to you.

SENATOR HATCH: Okay. Thank you. I appreciate it.

[Whereupon, at 9:27 a.m., the taking of the sworn statement recessed, to reconvene at 7:30 a.m., Friday, August 20, 1982.]

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CERTIFICATE OF REPORTER

I, Anne E. Hayes, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Anne E. Hayes

Anne E. Hayes, Reporter.

CERTIFICATE OF REPORTER

I, Cathy Jardim, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Cathy Jardim

Cathy Jardim, Reporter

United States Senate

Committee on Labor and Human
Resources

Washington, D.C.

Friday, August 20, 1982
7:35 a.m.

Room 4232 Dirksen Office Building

RESUMED SWORN RECORD OF ANTHONY ADAMSKI, JR., UNIT CHIEF, FINANCIAL CRIMES UNIT, FBI

APPEARANCES:

Senator Orrin Hatch, Chairman, Committee on Labor and Human Resources

John P. Flannery, II, Special Counsel, Committee on Labor and Human Resources

Theodore Olson, Assistant Attorney General, Office of Legal Counsel
John A. Mintz, General Counsel, FBI
J. Kevin O'Brien, Office of Congressional Affairs, FBI
Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs

Walter Sheridan, designated staff member of Senator Kennedy
Harold Gordon, designated staff member of Senator East
Joel Lisker, designated staff member of Senator Denton
James Wolfe, designated staff member of Senator Quayle
Diann Howland, designated staff member of Senator Quayle
Tom Parry, designated staff member of Senator Hatch
Bruce Navarro, designated staff member of Senator Nickles

Barbara Mulkey, Committee Staff
Carol Egbert, Committee Staff
Deborah Dahl, Committee Staff

SENATOR HATCH: Let's begin the discussion again today.

I wonder if we could each identify ourselves, starting with you, Bob.

MR. McCONNELL: Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs.

MS. HOWLAND: Diann Howland, Senator Quayle's office.

MR. MINTZ: John A. Mintz, General Counsel, FBI.

MR. O'BRIEN: J. Kevin O'Brien, Office of Congressional Affairs, FBI.

MR. LISKER: Joel Lisker, Senator Denton.

MR. NAVARRO: Bruce Navarro, Senator Nickles.

MR. WOLFE: Jim Wolfe, Senator Quayle.

MR. PARRY: Tom Parry,Senator Hatch.

MS. MULKEY: Barbara Mulkey, Committee staff.

MS. EGBERT: Carol Egbert, Committee staff.

MR. SHERIDAN: Walter Sheridan, Senator Kennedy.

MR. FLANNERY: John Flannery, Senator Hatch.

MR. OLSON: Theodore Olson, Department of Justice.

MR. ADAMSKI: Anthony Adamski, Criminal Investigative Division, FBI.

Thereupon,

ANTHONY ADAMSKI, JR.

was called as a witness and, having previously been duly sworn by Senator Hatch, was examined and testified further as follows:

BY SENATOR HATCH:

Q Now, Mr. Adamski, let me direct your attention to a January 12, 1981 letter by Monroe to Fielding and the accompanying January 12, 1981 letterhead memorandum to Fielding. Now, those are listed as Exhibit 19. Do you recognize these?

A (Perusing documents.) Yes, I do, Senator.

Q Who authored those documents? The initials are those of Mr. Drake, I understand.

A Those are the initials of Mr.Drake, which would indicate that he authored the document.

Q Was the January 10, 1981 teletype made available to Mr. Drake?

A Yes, it was.

Q What other materials were made available to him?

A I don't know, Senator.

Q Did you have any conversation with Mr. Drake before he wrote the letter or memorandum, and if so, what was said, was anyone else present, and when did it take place?

A We did discuss the memorandum. I don't think anyone else was present; if so, I don't recall.

Q Did you have any conversation about the memorandum with Mr. Drake after he wrote it?

A Between this time and that, yes.

Q Did you review and approve the memorandum?

A Did I review and approve it?

Q Yes.

A Yes, I did.

Q What was your conversation about the memorandum with Mr. Drake afterwards?

A It dealt mainly with the review of documents in connection with the internal inquiry, I believe.

Q Do you remember any specifics?

A No, I don't, Senator.

Q Were there any other conversations with anyone else regarding the January 12, 1981 memo to Fielding -- Mr. Schulte, Monroe, Mullen, or anybody else?

A Probably so, in the interim period between the time it was written and this date, and probably based on the internal inquiry.

Q For what reason didn't you furnish the information in this memorandum to the Committee for the January 12, 1981 hearing -- if you know?

A Basically, we didn't know that there was a January 12 meeting of the Committee. The transmittal of these documents was usually handled through the White House.

Q In other words, you relied on the White House to do whatever they wanted to with them?

A Our client is the White House, and we furnish them to the White House.

Q To make that clear, under the perception of the FBI at that time, your belief was that your client was the White House and that you worked for them, and it was up to them to handle these materials?

A That's how it has been traditionally handled.

Q Okay. Did you have any discussions regarding whether you would furnish the information to the Labor Committee?

A Not to my recollection.

Q Who decided not to furnish the information to the Committee, or was it just a decision to just furnish it to the White House and let it take its natural course?

A I don't think there was any decision not to furnish it to the Committee. I think it was a decision -- well, it was the normal practice to furnish it directly to the White House.

Q Did you attend the January 12, 1981 confirmation hearing of Raymond Donovan?

A I did not.

Q Did any representative of the FBI?

A Not to my knowledge.

Q Did you receive a report of what transpired at the hearing, shortly thereafter -- say, between the 12th and the 15th?

A Not to my knowledge.

Q Were you aware that there was considerable discussion about the Harry Gross matter at the hearing?

MR. OLSON: At or shortly after the hearing?

SENATOR HATCH: Yes. At the hearing or shortly thereafter -- yes, shortly thereafter.

THE WITNESS: That information came to my attention sometime before our appearance on January 27th.

BY SENATOR HATCH:

Q I see. Did the FBI have information concerning the Gross matter that might have been helpful for the Committee to have had for the January 12th hearing? Did you have it in your possession at the time of January 12th?

MR. OLSON: That calls for speculation, Senator, as to what --

SENATOR HATCH: Well, if he knows.

MR. OLSON: -- what might be helpful to the Committee.

SENATOR HATCH: Well, we would suggest almost anything regarding Harry Gross, since he was a subject of investigation.

MR. OLSON: Well, if your question is did the FBI have any information or did Mr. Adamski have any information relative to Harry Gross as of January 12th, 1981 --

SENATOR HATCH: Right.

MR. OLSON: -- is that the question?

SENATOR HATCH: Right. The FBI, or Mr. Adamski, or anybody at the FBI.

THE WITNESS: Institutionally, the FBI had a great deal of information concerning Harry Gross. Personally, I did not.

BY SENATOR HATCH:

Q Did you review the hearing of January 12th before you appeared on January 27th?

A I did not.

Q Okay. Could I ask you how you could have prepared to have addressed the questions that the Committee had to ask had you not reviewed that January 12th transcript of hearing?

MR. OLSON: I'm not sure I understand the question, Senator.

BY SENATOR HATCH:

Q Well, in other words, did you prepare for that hearing without any consideration to what was said on January 12th?

A Senator, since that's the first time we have appeared in such circumstances before your Committee, or before any committee in this type of investigation, we did not know what your questions would be or what our purpose would be. We came to provide whatever information we had. We did not review the prior activities of the Committee in the nominating process.

Q Okay. The information that the Committee obtained on the Gross matter for the hearing was done on its own, through the Department of Justice. But if you know, why didn't the FBI furnish either the transition team or the Committee the information it had on the Gross matter?

A The purpose of the special inquiry investigation is to determine the suitability of the candidate, Raymond J. Donovan, in this case. While the involvement of his construction company, Schiavone Construction, was related to the Harry Gross matter, he himself was not involved. We mentioned it to bring it to the attention of the White House at that time, and we did not go into it any further.

Q As a result of our letter of December 31st, 1980, which has been marked Exhibit 8, we felt that you also had an obligation to respond to the Committee, not only on -- you know, from December 31st onward. Did you consider that an obligation at all, or did you consider still that your only obligation was to the White House?

A With regard to your letter, Senator, I understood that the terms of that document had been mitigated prior, in a discussion between the Department of Justice and Senator Kennedy. I did not feel an obligation at that time to respond to that portion of your letter.

Now, had you wished that information, we could have been asked that information during the hearing.

Q If you claim that this letter from Senator Kennedy and I was modified, could you explain to us what modifications you believe took place?

A I was not present during the process of the modification of the terms of that letter. I can only say that my instructions were to provide the Committee as an accommodation the information requested concerning the Kantor matter.

Q If that is so, then, why, on January 14th, did you provide us the information on the Picardo matters and then say it was in response to this letter?

A Between the time of your initial letter, which I believe is December 31st, and the arrival of the Picardo information, there was, I believe, some telephonic contact between ourselves and your staff, which mitigated the terms of your letter and our association.

Q Do you know who participated in that telephonic conversation, either on your side or on our staff -- at the FBI or on our staff?

A No, I don't specifically recall.

Q Do you have any ideas?

A (Pause.) It may have been -- and I don't know this to be fact -- it may have been Russ Bruemmer, Special Assistant to the Director; possibly, Bud Mullen. But at any rate, that's how members of your staff were present during the interview of Picardo.

Q Okay. The interview, I would point out, with

Picardo was after the 14th letter, as I understand it.

A The interview with Picardo took place on the 15th.

Q Right. Were you aware -- is there some other contact you are referring to, other than this one, since Picardo occurred after the 14th letter?

MR. OLSON: I don't understand the question.

BY SENATOR HATCH:

Q The interview of Picardo occurred after the January 14th, 1981 letter.

MR. OLSON: What is the question?

BY SENATOR HATCH:

Q Now, let's turn to that January 14th letter, Exhibit Number 18 -- do you have a copy of that?

(Mr. Olson handing document to witness.)

It says, "Dear Mr. Chairman, reference is made to my letter dated January 7th, 1981, which furnished to you information concerning Raymond J. Donovan. Additional information has been developed concerning Mr. Donovan, and in view of your prior request, a letterhead memorandum concerning this information is enclosed. If additional information is developed, you will be advised. Signed, Sincerely yours, William H. Webster, Director, by Francis M. Mullen."

Obviously, the only prior request referenced before the letter of January 7th would have been our December 31st letter.

MR. OLSON: Your question presupposes that the only prior request your Committee could have made had to have been in writing. There could have been oral requests, telephonic requests, all kinds of requests.

SENATOR HATCH: Let's presuppose that. The reason I am saying it that way is, I don't think you have identified any other request to us, oral or otherwise. I think our requests have been written.

MR. OLSON: Well, I'm not sure what your question is. I think the record indicates that there was, during this period of time, communications between you or members of your Committee and the transition team and the FBI.

SENATOR HATCH: Well, I think the point of our question is that we did report directly to the Committee, notwithstanding the assertion that you worked only for the White House, or that they were your only client.

MR. OLSON: The record does reflect, Mr. Chairman, that there was a letter, particularly on January 14, 1981, directed directly to the Committee, that's correct.

SENATOR HATCH: This January 7th letter indicates, from Director Webster, that any additional information we will be advised on.

MR. OLSON: Well, I think we are in the mode of simply arguing now.

SENATOR HATCH: Of course, January 23, also, an additional bit of information was given to the Committee.

I think all we are saying is that this started to become a little bit more than just serving the White House as a client.

MR. OLSON: Well, I think that's a matter of argument and conclusion.

BY SENATOR HATCH:

Q One thing that does appear here is that your letters to the White House always went out under the signature of an Assistant Director, where the letters to the Committee seemed to always come directly from the Director -- of whom we made the request on December 31st.

Did you notice that?

MR. OLSON: I don't think that the witness has all of the letters in front of him, but I think the letters would speak for themselves, in that regard.

BY SENATOR HATCH:

Q All right. Were you aware, Mr. Adamski, that an Executive Session of the Committee was scheduled for January 15th, 1981, to vote on the Donovan nomination?

A Not at that time, Senator.

Q When did you become aware of that?

A I think, the day before yesterday.

Q If that session had gone forward as scheduled, as I pointed out yesterday, Mr. Donovan's nomination would have been voted out without the Committee having any knowledge of the organized crime allegations; I think you'd have to agree with that.

MR. OLSON: Senator, I can't allow the witness to answer that kind of a question. You are asking him to speculate as to what this Committee would have done based upon information of which he was not aware at the time.

SENATOR HATCH: I will assert for the record that that is what would have happened, had Mr. Picardo not come forward.

BY SENATOR HATCH:

Q Now, did you have any indication that the FBI intended to give any of the information contained in your January 12, 1981 memo to the Committee before its January 15th Executive Session?

A Senator, we did not know about the January 15th Executive Session, and it was not the practice of the FBI to deal directly with the Committee at that point in time.

Q Is it fair to say that, in other words, you would not have -- there would have been no intent by the FBI, rightly or wrongly -- but in this case, rightly -- to give any of this information in the January 12th memoranda to the Committee before its January 15th Executive Session, after giving it to the White House; it was up to the White House to make that decision; is that a fair comment?

A The White House was the transmitter of the information developed during our investigations to the Committee.

Q Is it fair to say that if Mr. Picardo had not surfaced on January 13th, 1981, causing us to postpone the Executive Session, that the Committee would probably never have received this information?

MR. OLSON: I object to the question. It calls for speculation, and in fact, it is compound speculation.

SENATOR HATCH: I'm talking from the FBI; let's limit it just to the FBI.

MR. OLSON: Well, may I ask you to rephrase the question? It does call for speculation.

BY SENATOR HATCH:

Q Isn't it fair to say that if Mr. Picardo had not surfaced on January 13th, 1981 that the FBI -- which, of course, caused us to postpone the Executive Session scheduled for the 15th -- that the FBI would never have given us this information directly?

MR. OLSON: I think it is a question that calls for speculation and it is based on an assertion which we are not --

SENATOR HATCH: I'm asking him if he knows. If he doesn't know, then he can say so.

THE WITNESS: Our normal dissemination would have been to the White House, with every expectation that the Committee would have been promptly and timely advised.

BY SENATOR HATCH:

Q As of January 15th, were your Masselli investigations in the New York-New Jersey area still continuing?

A As of January 15th?

Q As of January 15th, and thereafter.

MR. OLSON: Nineteen eighty-one?

SENATOR HATCH: Eighty-one.

THE WITNESS: It is my understanding that they were in the pre-indictment stage. Whether or not active investigation was going on, I'm not sure.

BY SENATOR HATCH:

Q What about with regard to the applicant investigation, which you indicated on the 12th was still continuing? Would you have continued on the applicant investigation after the 12th?

MR. OLSON: If -- I'm not --

BY SENATOR HATCH:

Q I mean, in fact, were you continuing that applicant investigation after you transmitted the memorandum of the 12th to the White House?

A Yes, Senator.

Q Were you still continuing it on the 15th and thereafter?

A Yes, Senator.

Q After Picardo did surface on January 14th, 1981, a letter was sent to us, dated January 14th, 1981, dictated by you, containing the Picardo allegations; is that correct?

MR. OLSON: I believe that is Exhibit 18.

SENATOR HATCH: Exhibit 18, okay.

BY SENATOR HATCH:

Q Is that correct?

A That's correct, Senator.

Q And why didn't you include the new information about organized crime allegations in that particular letter?

MR. OLSON: Which information are you referring to?

SENATOR HATCH: The business and personal associations with organized crime figures, the Genovese family, the Massolli tapes -- any and all of them -- that you had available at that time.

MR. OLSON: The information referred to in the January 12 documents?

SENATOR HATCH: Sure, or any other information on organized crime that you had at that time that might have been pertinent to the Donovan matter.

THE WITNESS: This was an interim communication based on specific new information. We do not, as a matter of practice in these matters, disseminate information on a daily basis. We did not consider the investigation closed. The complete results of the investigation were to be furnished at the time we considered the investigation closed.

BY SENATOR HATCH:

Q But Mr. Adamski, didn't you consider the organized crime allegations equally as serious as the Picardo allegations?

A No, Senator, I didn't. The Picardo allegations were more specific.

Q But weren't the Masselli allegations even more recent than Picardo?

A They were more recent than Picardo.

Q And they were corroborated.

A Pardon?

Q They had already been corroborated, as well.

A What had been corroborated, Senator?

Q The Masselli allegations.

A What Masselli allegations?

Q The business and social ties with organized crime figures of the Genovese family, the Masselli tapes.

A I don't think that's corroborated to date.

Q Your memorandum to Fielding says that they were corroborated.

MR. OLSON: Senator, I think we are getting into argument this morning.

SENATOR HATCH: No. We don't want to do that --

MR. OLSON: We are talking over and over about information that has been asked and answered in previous sessions of these hearings, and there is information contained in the documents, and I think you are simply arguing with the witness about how they ought to be characterized.

SENATOR HATCH: No, I am not. I am talking to a brand new witness, and admittedly --

MR. OLSON: I wouldn't call Mr. Adamski a brand new witness. This is the third or fourth session.

SENATOR HATCH: Well, let's call him the second witness after -- the witness after Mr. Mullen.

BY SENATOR HATCH:

Q Now, in the January 12th memorandum, which has been listed as Exhibit Number 19, the paragraph says, "A review of the files of the New York Division of the FBI indicates Mr. Donovan, through his position with Schiavone Construction Company, Secaucus, New Jersey, has close personal and business ties with known La Cosa Nostra (LCN) figures. The degree of Mr. Donovan's association with knowledge of the LCN figures has not been determined. This information was corroborated by independent interviews of confidential sources."

Now, that's what I am referring to.

MR. OLSON: Well, that's what the document says, and you have asked him about that document, and you have asked him what those words mean before.

SENATOR HATCH: Yes. And I'm asking him, weren't the Masselli allegations more recent than Picardo, and weren't they corroborated.

MR. OLSON: He has answered as to whether they were recent.

SENATOR HATCH: He did, and I'm asking him is it true that they were corroborated.

I'm not trying to give you a rough time. I just want to get through this, that's all.

MR. OLSON: Well, I don't know that we are going to get through it if it is just going to be argument.

SENATOR HATCH: I'm not arguing. I'm taking a document that is right there, and I'm asking him is that true where it says that, "This information was corroborated by independent interviews with confidential sources."

BY SENATOR HATCH:

Q Is that true or false?

MR. OLSON: You've asked him about that.

SENATOR HATCH: Let him answer it.

MR. OLSON: All right.

THE WITNESS: Senator, I believe yesterday, I explained that what I meant by "corroborated" in that particular communication was that the same allegation had been made by more than one source.

SENATOR HATCH: Well, that would be what I would understand it to be, too. Okay. I don't mean to repeat this, but I do want to make sure we have covered it, and sometimes we will be a little repetitive. But this is not a court of law where --

THE WITNESS: But that doesn't mean that the information contained in the Masselli tapes was corroborated.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q By your own memorandum, you did indicate that the investigation was continuing with regard to Mr. Donovan, and this memorandum indicates that.

MR. OLSON: Exhibit 18?

SENATOR HATCH: Exhibit 13. That's the January 12th memorandum.

THE WITNESS: On January 12th, the investigation was continuing.

BY SENATOR HATCH:

Q And you indicated even past January 15th, it was continuing?

A That's correct.

Q Okay. Was any consideration, in addition to what you have already testified to, given, including the Masselli allegations, to Fielding at that time?

MR. OLSON: May I ask you to rephrase that question? I'm not sure I understand.

BY SENATOR HATCH:

Q Did you make up your mind not to give the Masselli allegations to Fielding, or was there any consideration given to whether or not you should give the allegations to Fielding, concerning Masselli?

MR. OLSON: Other than what the witness has already testified to?

SENATOR HATCH: Other than what he has already testified to.

THE WITNESS: As far as I recall, the only allegation derived from Masselli with regard to Mr. Donovan was that his name was mentioned in a conversation by two other persons, going to a social event or a trade event. I had already provided that information to Mr. Fielding --

BY SENATOR HATCH:

Q Yes, but you hadn't provided it to us in the January 14th, 1981 memorandum that you sent to us. Was any consideration given to giving us the same information?

MR. OLSON: I believe the witness has been asked and answered that question.

SENATOR HATCH: Not that question, he hasn't.

THE WITNESS: At that point in time, we were not reporting to the Committee on a daily basis. I don't think that ever came up.

BY SENATOR HATCH:

Q So you don't think any consideration was given, because you weren't reporting on a daily basis, and you were more concerned about getting the information to the White House?

A I don't think it's a question of being more concerned, Senator. It's a question of the way the practice ran.

Q That's the way I'm interpreting it.

Your letter referenced -- well, let me just make a statement here. So, your letter referenced our prior request for information. That is the December 31st letter, asking for all the information the FBI had on Mr. Donovan. You have basically agreed with that, as I understand it. But your letter referenced it; we had already asked for all the information pertaining to Mr. Donovan or developed from Mr. Donovan in our December 31st letter.

MR. OLSON: I'm not sure I understand what the question is.

BY SENATOR HATCH:

Q Isn't that true?

MR. OLSON: That --

SENATOR HATCH: That his letter referenced that we had asked for information.

MR. OLSON: His letter of January --

SENATOR HATCH: Fourteenth.

MR. OLSON: -- 14th.

BY SENATOR HATCH:

Q I think what I am getting to is, why didn't you i.. that letter include the organized crime allegations along with the Picardo allegations; is there any particular reason why you didn't do that?

MR. OLSON: Senator --

BY SENATOR HATCH:

Q The January 14th letter from William Webster by Francis Mullen reads, "Additional information has been developed concerning Mr. Donovan, and in view of your prior request, the letterhead memorandum concerning this information is enclosed."

Then, he goes on to say, "If additional information is developed, you will be advised."

Now, why didn't we get, at that time, the information pertaining to the organized crime allegations?

MR. OLSON: I believe the record will request that question has been asked and answered.

SENATOR HATCH: And what do you think the answer was?

MR. OLSON: He gave a relatively long answer. I'm not going to summarize it.

SENATOR HATCH: Well, then, have him answer it again, then, if you will.

THE WITNESS: Senator, we do not report on a daily basis. This was the January 14th letter was to report a specific event. We did not intend to include all information to anyone, nor did we include -- or, intend it to be a final document.

BY SENATOR HATCH:

Q My question is why, in giving this information that was not considered to be daily information, did we not, at or near the same time, get the organized crime allegations?

A Because the investigation had not been completed.

Q But it was given to the White House although the investigation was not completed -- and the Picardo investigation, I would hasten to point out, was not completed either.

MR. OLSON: Mr. Chairman, I submit that this is argumentation. You have asked the witness the question a number of times. The witness has answered the question a number of times. It may be that --

SENATOR HATCH: Well, let me re-ask the question.

BY SENATOR HATCH:

Q Isn't it true that the Picardo investigation was not completed as of January 14th?

A The Picardo -- the investigation based on the information provided by Mr. Picardo was not completed on January 14th.

Q Right.

A The reason that we brought this to your attention was simply to advise you of these facts, which I think was brought about by some oral telephonic contacts between the FBI and your Committee staff.

Q Did you personally have any of those contacts with staff?

A Not on that day.

Q When did you have contacts with the staff, the Committee staff, and about what?

A I believe my contacts with the Committee staff began on January 15th, probably ran on either a daily basis, or an almost daily basis, until at least January 28th.

Q Do you know with whom on staff you were dealing?

A I believe I was dealing with Bob Hunter from your staff at that time; Larry Horowitz from Senator Kennedy's staff at that time; on occasion, with Frank Silbey of, I believe, your staff --

Q He is Committee staff.

A Those are just the people I recall.

Q Do you know if there are any internal memoranda regarding this whole area, of who talked to whom, and what was provided and what wasn't provided, why it was provided and why it wasn't provided?

A In what time frame, Senator?

Q Between the 5th of January and the 23rd of January.

A No, I do not.

Q Have you read or had access to any other internal memoranda regarding the January 12th memoranda, other than what we have seen in this sworn statement period of time?

A I'm not quite sure I understand the question, Senator.

Q Are there any other internal memoranda that would apply or be pertinent to this area, between January 8th, 1981 and January 15th, 1981?

A Created at that time?

Q Yes -- or created since.

A Well, a lot of documents have been created since, in the preparation of the materials that have been furnished to you.

Q Let's start first with created at that time, between the 8th and the 15th; have you prepared any memoranda?

A Not to my knowledge.

Q And there have been memoranda created since?

A There have been memoranda, I believe, created since referring or discussing that document, but not -- just referring or discussing that --

Q But adding any new information or discussing any new information, or basically, just discussing what happened with regard to that document?

A Just discussing what happened with regard to that document.

Q Could we review those documents?

MR. OLSON: Well, why don't we deal with that in the usual way? There has been a rather voluminous trail of correspondence back and forth between the Department and the Committee.

SENATOR HATCH: It might pay for us to review it with you or have staff review it with you, if it is all right with you -- if you can make it available.

MR. OLSON: Yes, I think that there is a relatively massive amount of transmission of documents.

SENATOR HATCH: I understand. It might just pay to do that, just so we can say we have reviewed it, okay?

MR. OLSON: All right.

SENATOR HATCH: Do you think that could be done as early as next Monday, so Mr. Sheridan and Mr. Flannery could sit down with you and go over it?

MR. OLSON: I think we'll have to discuss that this afternoon. My calendar is rather jammed. I don't know how we might go about doing that, but I don't know --

SENATOR HATCH: Well, we'd like to have it worked out as quickly as possible, though, so that when I come back from the recess, I want to be able to finish this up, if I can.

MR. OLSON: I think --

SENATOR HATCH: Do you have any of the documents we requested yesterday, for instance?

MR. OLSON: No.

SENATOR HATCH: You don't. Do you know when we might get those?

MR. OLSON: We are working on those, Senator. I am not sure.

SENATOR HATCH: All right.

BY SENATOR HATCH:

Q Mr. Adamski, did you write any other internal memos in January of 1981 pertaining to the Donovan investigation or any aspect thereof?

A Yes, Senator, I believe I did, and I believe you have copies of them.

MR. OLSON: Let me interrupt and ask --

SENATOR HATCH: You believe I have copies of all those?

MR. OLSON: -- let me interrupt and ask a question. I don't believe we received a letter yesterday from the Committee.

SENATOR HATCH: I handed it to you yesterday.

MR. OLSON: Oh, yes, that was dated on the 18th. We did not receive --

SENATOR HATCH: Okay. That was the letter we were referring to.

MR. OLSON: I was referring, when I made that statement to --

SENATOR HATCH: Any new letter?

MR. OLSON: -- any new letter, subsequent to yesterday's hearing.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Now, let me go into this aspect of it, Mr. Adamski. What was Mr. Mullen's role in the Donovan investigation?

A He was Executive Assistant Director at that time.

Q How often and on what occasions did you confer with him about the investigation?

A (Pause.)

Q Was it on a daily basis, or how was it?

A I think I probably only conferred with him less than a half a dozen times.

Q Did you confer with him about the January 10th teletype or the January 12th memoranda?

A I did not.

Q Did you confer with him about the Picardo allegations?

A He was present at the briefing concerning Picardo allegations with members of the Committee staff and other FBI and White House representatives. If you consider that to be conferral, yes.

Q Okay. Did his role change in any way after the Picardo allegations, and if so, how?

A He continued to be the Executive Assistant Director.

Q But I'm talking about his role in the applicant investigation, not his general job.

A I probably conferred with him more frequently after the Picardo meeting than I did before.

Q Did you report to Mr. Schulte, Mr. Monroe, or Mr. Mullen?

A All of them.

Q You reported to all of them. Any one in particular more than the others?

A Schulte was my direct supervisor.

Q He was your direct supervisor. Were there meetings in which you conferred with all or some of them in connection with the investigation, or were they just separate meetings?

A They were both, separate and together.

Q And how often would you confer with them and concerning what issues, during this period of time?

A I have no recollection of how often. They weren't formal conferences, in most cases. We conferred on many points of the investigation. I don't recall specifically which.

Q And what role did you have in the preparation of the January 23rd, 1981 report?

A I believe I authored most of it.

Q Did anybody else help to prepare it?

A Several people.

Q Could you name them for us?

A Michael L. Drake, Joe Domzalski, Joe Schulte. I think those are the people who created the document, or crafted the document.

Q So that you crafted most of it?

A That's correct.

Q Who decided what would and would not be included in it?

A For the most part, I did.

Q And what role did Mr. Schulte have in the preparation of that document?

A The role of review, suggestion --

Q A supervisory role, then?

A That's right.

Q Did Mr. Mullen have a role?

A In the creation of the document?

Q In the creation and dissemination.

A He reviewed the document prior to its dissemination.

Q What role did Mr. Monroe have?

A The same role.

Q How was it decided that the organized crime allegations would be included in the report, and who decided that -- in this January 23rd report?

A I did.

Q Now, why did you decided to do it there, when it wasn't put into the -- well, it was put into the Fielding; it just wasn't put into the Fielding report in the detail that the internal memorandum had. (Conferring with Mr. Flannery.)

Let me go on to the next question. The first paragraph of the January 23rd, 1981 report stated that a check of the indices of the New York office disclosed, "That the Schiavone Construction Company, SCC, Secaucus, New Jersey, which is partially owned by Mr.Donovan, is involved in a current FBI investigation under the Federal Racketeer Influence and Corrupt Organizations, RICO, statute, wherein records of SCC were subpoenaed by a Federal Grand Jury, but Mr. Donovan was not subpoenaed."

MR. OLSON: Excuse me, Senator. Has that been marked with an exhibit number, and I will place that in front of the witness.

SENATOR HATCH: That's Number 20, Exhibit Number 20.

MR. OLSON: Thank you. (Handing document to witness.)

BY SENATOR HATCH:

Q Now, that paragraph actually refers a Grand Jury investigation of William Masselli and the Jopel Company relationship to the Schiavone Company, does it not?

MR. OLSON: You are asking with respect to the entire paragraph?

SENATOR HATCH: Yes, the RICO investigation aspect, that portion of that paragraph.

MR. OLSON: I'm simply not -- there are two sentences that refer to RICO, and if you are referring to the whole paragraph --

SENATOR HATCH: I'm not referring to the whole paragraph. I'm referring to the RICO investigation part of the paragraph,"wherein records of SCC were subpoenaed by a... Grand Jury, but Mr. Donovan was not subpoenaed."

BY SENATOR HATCH:

Q Now, that paragraph actually referred to the Grand Jury investigation of William Masselli and the Jopel Company and their relationship to Schiavone, does it not?

A Senator, that paragraph refers to two investigations, one, Harry Gross, and the other code named Tumcon; both were RICO investigations.

Q I see. And Tumcon involved -- what did Tumcon involve?

A To the best of my recollection, it was contractual kickbacks to construction companies.

Q I see. Now, did it also include as part of either of those, an investigation of the alleged fraudulent establishment of a Minority Business Enterprise by Masselli as a subcontractor of the Schiavone Company?

A I don't know.

Q Okay. Now, who wrote that paragraph in the memo, if you recall?

A I wrote that paragraph.

Q And you don't think that had any relationship to the Masselli-Jopel matter?

A Senator, I did not review either the Harry Gross matter, which is several volumes long, nor the Tumcon matter, which is also several volumes long. I relied on a thumbnail description provided me by people who did review it, the point being that Mr. Donovan was not a subject of that investigation, and the Schiavone Construction Company was not a subject of either investigation.

Q But Tumcon did include the Masselli allegations, as I understand it, the Masselli-Jopel.

A It may have. I don't recall now, Senator.

Q Okay. If you didn't know the specifics, why would you include that paragraph -- if you didn't know the specifics of what really was involved in the RICO investigation, why did you include that paragraph?

A The purpose for including that paragraph was to make the White House aware that those allegations had been raised and that there was an ongoing investigation where

Schiavone Construction Company may be considered to be involved.

Q Now, we had the impression as a Committee that that involved the Harry Gross matter, but we also have been informed since then that it involved the Masselli-Jopel relationship and the fraudulent Minority Business Enterprise problem. Are you aware of that?

MR. OLSON: Was he aware of what you became aware of?

SENATOR HATCH: Or been apprised about.

BY SENATOR HATCH:

Q Well, were you aware that the Masselli-Jopel -- as I understand it, you have said that Masselli-Jopel was part of Tumcon.

A I said it may have been; I don't know.

Q It may have been; you just don't know.

Now, Mullen, when he testified -- and he was your supervisor -- said he knew that Tumcon involved Masselli-Jopel; but you didn't?

MR. OLSON: Mr. Chairman, I am not sure whether that testimony by Mr. Mullen referred to his state of mind as to the date he testified last week and this week, or it was his state of mind in January 1981, and I'm not sure whether your question is addressed to which period of time.

BY SENATOR HATCH:

Q Well, when you prepared this particular paragraph, then, all you knew then was there was a RICO investigation; you didn't know the details of it, other than Harry Gross. You were aware of the Harry Gross matter -- and the Tumcon matter, as a general proposition?

A I was aware of Harry Gross as an investigation; I was aware of Tumcon as a separate investigation.

Q But you did not have an in-depth knowledge?

A But I did not have an in-depth knowledge of either.

Q Of either. Who prepared the prepared statement of Mr. Mullen that was given to the Committee? Did you participate in that?

A I reviewed the statement after it was prepared. I did not prepare it.

Q Do you know who did?

A To the best of my recollection, it was prepared by Joe Domzalski, Russ Bremmer. They were assisted by Mickey Drake and Joe Schulte. Mullen reviewed it, and I also reviewed it.

Q The reason I bring that up is that on page 254, Mr. Mullen stated from that statement, in the second paragraph --

MR. OLSON: Excuse me. Is that marked as an exhibit?

SENATOR HATCH: This is Exhibit Number 21.

BY SENATOR HATCH:

Q On page 254, the second paragraph, the second sentence, it says, "This investigation in part concerns the fraudulent establishment of a Minority Business Enterprise by certain individuals and the use of services of a subcontractor who is an alleged Minority Business Enterprise by Schiavone Construction Company. Neither Mr. Donovan nor Schiavone Construction Company is the target of this investigation."

And that is where we first learn this matter. But you say you just didn't really understand that in depth?

A I didn't know about it in depth, and I don't know about it in depth today.

Q And you think Mr. Domzalski and others wrote that paragraph?

A (Pause.)

Q You don't know who wrote that?

A I don't know who wrote it; I didn't.

Q The second paragraph of the report deals with the allegations -- and now, I am talking about the January 23rd report -- deals with the allegations you received in the January 10th, 1981 teletype, which are reflected in your January 12th, 1981 internal memorandum. Is that correct? I am talking about the second paragraph, beginning on January 12th, 1981.

A They include that information.

Q Okay. Do you think the information contained in this paragraph is an accurate reflection of your January 12, 1981 internal memorandum?

A I don't think it was intended to be.

Q It was not intended to be an accurate reflection?

A I did not attempt to put the January 12th memorandum into the January 23rd. It is a separate document. I attempted to include all the information that we had, so this would be expanded, but less specific.

Q Okay. Well, the fact is, you did not include all the information.

You explained that yesterday, that you were worried about how best to explain this in a general way without compromising, as I understood it, without compromising your sources.

A It is less specific.

Q Perhaps we can compare them. The January 12, 1981, memo says, "Information has been developed as of January 8th, 1981."

MR. OLSON: Which memo are you referring to?

SENATOR HATCH: Exhibit No. 13.

BY SENATOR HATCH:

Q That memo says that, "Information has been developed as of January 8th, 1981."

Now, the January 23rd, '81, memo says that the New York Division developed information between January 8th and January 10th, 1981.

I think the documents speak for themselves.

The January 12th, 1981, memo says that, "Two independent sources of the New York Division have advised that the SCC, in which Mr. Donovan is an Executive Vice President, is 'mobbed up.'"

The January 23rd memo said that, "Through sources that SCC, in which Mr. Donovan is an Executive Vice President, is 'mobbed up.'"

So this is an illustration of how you generalized.

You didn't mention the two sources in the January 23rd.

A I didn't mention the number of sources.

Q Right.

And you felt still though that you were conveying the general essence of the document, the January 12th document.

MR. OLSON: Or the information.

SENATOR HATCH: Sure. The general essence of the information in the January 12th.

THE WITNESS: That is correct.

BY SENATOR HATCH:

Q The January 12th, 1981, memo says that, "One source indicates that the upper management of SCC is closely aligned with the Vito Genovese family of the LCN through SCC Vice President Albert Magrini and the contacts with Jopel Construction headed by William Masselli who is an alleged self-admitted soldier in the Genovese family."

Now, the January 23rd, '81, memo did not even mention the Vito Genovese family and Mr. Magrini's name was deleted. Vito Genovese family was deleted.

Do you know who made the decision to delete those and why?

MR. OLSON: I think the word "deleted" is not quite correct.

SENATOR HATCH: Sure. Not placed in the January 23rd memorandum.

MR. OLSON: Your question is who, if he knows, made the decision not to include those names in the January 23, 1981, report?

SENATOR HATCH: Right.

BY SENATOR HATCH:

Q Did you make that?

A I did.

Q Any particular reason why you didn't put these names in, this description in?

A It didn't add anything particularly to the information provided concerning the allegation and the --

Q Or at least you didn't think so at the time?

A Or now.

Q Well, to somebody on the Committee who -- which deals with organized crime connections, especially in the area of labor, it seems to me it would have been important for us. Now, I understand value judgments but it would have been important for us to know about the Vito Genovese family and the Magrini contact with that family if that -- c at least those allegations.

Now, what you are saying is, as a seasoned FBI agent, you made the decision that those particular names were not crucial to Mr. Donovan's applicant investigation, in your opinion, and they were not crucial to the Committee.

To me, in retrospect, I would say they would be crucial and it would be important to ask questions about that. But that is my judgment. I am not saying that your judgment was wrong. I am just saying -- I think I characterized it right. You as a seasoned FBI professional did not feel that the Committee needed to know about the specific names as long as we had the general allegation. Is that correct?

A Our purpose was to provide you with the allegation or to provide the White House with the allegations.

Q Now, see, one of our problems is that we -- one of the problems I have with this whole investigation, and what we are trying to do with this is to tie up the loose ends as to why we didn't have this kind of information and we didn't have the timely information which would have helped us to ask the tough questions at the time.

To me, in retrospect, it would have been very important to ask questions about any contacts or any relationships with the Vito Genovese family or any of their, you know, associates, capoes, et al., even soldiers, and it would be important to me to know that Mr. Magrini, who was a Vice President of SCC, was alleged to have had those contacts and that Mr. Donovan may have known about them, and to have asked those questions.

Now, all I am saying is I am not going to fault you for making that value judgment; that as a professional FBI agent, you know, those things were not crucial to our investigation.

But, literally, I feel that they are, that they were crucial.

Let me go just a little bit further.

The January 12th, '81, memo said, "This New York source alleged Mr. Donovan is acquainted with LCN members through Magrini and Masselli on a business and social basis and has, in fact, traveled from New York to Miami for the 1979 Super Bowl with Mr. Masselli and other LCN figures in the construction business."

The January 23rd, 1981, memo again does not include the references to Magrini and makes no references to Donovan's alleged Super Bowl trip in January of '79.

And again I will just point out that to us on the Committee it would have been important to know Magrini's name because we ourselves were conducting some investigation through our limited Committee staff in order to try to do our job as well, and it would have been well for us to have had that. We would have sent people up to interview Magrini himself.

I am just talking about in retrospect things are always easier. Okay?

A Fine.

Q But, again, why was there no reference to the Super Bowl trip?

A I believe we discussed that in testimony, Senator.

Q Okay.

Let's repeat it though for this segment of the record.

What was the reason there was no reference to the Super Bowl trip in the January 23rd, 1981, memorandum? And if you can tell us, who made the decision to delete that from the memorandum?

MR. OLSON: Again I object to the word "deletion."

SENATOR HATCH: Or to not put it in, not include it.

BY SENATOR HATCH:

Q Keep in mind any questions I am asking are not meant to be offensive. We are just trying to resolve this issue and you are one of the few people that can do it for us.

A I understand that, Senator. The information concerning the Super Bowl trip was not provided, nor was the Vito Genovese name not provided to be able to provide the White House and the Committee the information concerning the allegations but obscure the source or sources from which we obtained that information.

Q In other words, one of the things that was concerning you and other agents at the FBI is it is all right to give the general allegations but you don't want to compromise your sources of information or your informants.

Was that always a consideration uppermost in your mind?

A That is always a consideration uppermost in our minds.

Q And you may have been overprotective in that situation rather than -- well, you just may have been overprotective in this situation in retrospect.

MR. OLSON: Well, are you asking for the witness to make a value judgment?

SENATOR HATCH: Yes, I want that.

MR. OLSON: I don't think that is an appropriate question to ask a witness under oath.

SENATOR HATCH: It is not in a court of law but it is here.

MR. OLSON: Well, he is under oath, Senator, and I don't think that is appropriate.

BY SENATOR HATCH:

Q I just want your opinion on it as a professional FBI agent.

A I don't think you can be overprotective as to protecting the lives of informants.

Q In other words, you feel an obligation as a professional FBI agent to protect your sources and that is even with interest in those matters by a formal Congressional committee.

MR. OLSON: I don't understand the question.

BY SENATOR HATCH:

Q Well, you feel an obligation as a professional FBI agent to protect your sources, right?

A That is correct.

Q And that is even though a committee in Congress may be interested because we may or may not fully understand the necessity or the importance of protecting these sources as you do?

A We don't make a judgment as to whether or not a committee has any understanding or what they would do with the information. Our consideration is to protect the informants.

Q One of the things you do as an FBI agent is you do make certain promises to informants that you will protect their identities. Isn't that correct?

A That is correct.

Q And you consider that a moral and ethical and legal obligation?

A I certainly do.

Q And that sometimes transcends giving information even to Congressional Committees?

A The information is given. The identities are not. I think in this case the information was given.

Q However, the only -- let me just point to your attention that the Super Bowl was a specific allegation and yet we didn't get it in the January 23rd memorandum, and that I don't think would have compromised an informant or a source.

A Senator, I believe that while it was not in the January 23rd memorandum, you were aware of it at the time -- or at least somebody on the staff was because we were asked about it during testimony.

Q I see.

Who made the decision to delete that from the January 23rd memorandum?

A I made the decision not to include it, Senator.

Q Okay.

Well, I don't mean to be offensive in using delete. Let's always consider the language to be not included.

MR. OLSON: Is it appropriate now to take a break?

SENATOR HATCH: Want to take a break? Sure, let's take a five-minute break.

(Short recess.)

BY SENATOR HATCH:

Q When he was here, Mr. Mullen testified that he did not want "to open up the whole area" referring to the Tumcon investigation directed at possible organized crime activity and public corruption in awarding construction contracts in New York.

Now do you know if he expressed that opinion to you at any time in January of 1981?

A I am not sure, Senator, that he ever articulated that thought. It is always a concern.

Q Well, any variation of it. You are not sure?

A I just don't have any recollection.

Q I asked Mr. Mullen if it was true that he said to reporters that he discussed the decision not to tell the Senate that about the title III overhear with others in the SPIN unit. He said that he had and when I asked him with whom, he said, and I quote:

> "The only one I can remember with total accuracy would be Mr. Adamski who was kind of the go-between on this."

Now did he discuss that with you?

MR. OLSON: May I put that page of the testimony in front of the witness?

SENATOR HATCH: Yes. Page 214.

BY SENATOR HATCH:

Q Now did he discuss the decision not to tell the Senate about the title III overhear with others in the SPIN unit, in other words with you, that he did and what was said?

MR. OLSON: I am referring the witness to page 213.

SENATOR HATCH: 214.

MR. OLSON: Well, I think that colloquy begins at the bottom of page 213 and runs over to page 214.

THE WITNESS: Senator, it is my recollection we may have had a discussion concerning whether or not to include the information of Mr. Donovan's name being overheard in a conversation between two other individuals in the 1-23 memorandum. I don't recall ever having a discussion concerning what we would or would not tell the Committee.

BY SENATOR HATCH:

Q Have you read either the transcript in whole or in part or excerpts before coming here today?

A I believe I have read the transcripts of these first two sessions.

Q Did you disagree with Mr. Mullen about not informing the Committee about the tape reference?

MR. OLSON: Are you referring --

SENATOR HATCH: The Masselli overhear.

MR. OLSON: I think the question is vague but I will -- if the witness can answer it.

THE WITNESS: I don't, again, think that there was any discussion as to whether or not to inform the Committee. There was a discussion as to whether or not to include the information in the 1-23 memorandum and the resolve there was it was not considered by us to be particularly significant.

BY SENATOR HATCH:

Q That is the same thing, isn't it, the memorandum?

MR. OLSON: What is your question?

SENATOR HATCH: That the memorandum he just discussed would be the same thing I was asking him about, the tape reference.

MR. OLSON: I don't understand.

BY SENATOR HATCH:

Q Well, we are talking about the memorandum that was going to go to the Committee.

MR. OLSON: I believe we are talking about the January 23 report.

SENATOR HATCH: Yes, and the fact that they did not report the overhear in that report.

MR. OLSON: I understand we are talking about that report.

SENATOR HATCH: Right. That is correct. That is what we are referring to.

MR. OLSON: Yes. I am not sure what your latest question was.

BY SENATOR HATCH:

Q Did you disagree with the decision made by Mr. Mullen not to include that within the memorandum of January 23?

MR. OLSON: The January 23 report?

SENATOR HATCH: Yes.

THE WITNESS: I did not disagree with the decision to not provide that information in the January 23 memorandum.

BY SENATOR HATCH:

Q Mr. Mullen testified at page 215 here that he was "sure" that the members of the SPIN unit agreed with him.

So you didn't disagree with him, is what you are saying?

A I agreed to keep that information out of the 1-23 memorandum.

Q Was there any memoranda made relating to this discussion, to your knowledge?

A Not to my knowledge.

Q Who was involved in that discussion?

A To the best of my recollection it was Mr. Mullen, myself, Schulte, Domzalski and possibly Drake and possibly Bruemmer.

Q Now Mullen identified that he also consulted with an agent, Bonovolanta. Am I pronouncing that right?

A That is correct.

Q He was Assistant Section Chief of Mr. McQueeney, the Organized Crime Section Chief. Are you aware of that too?

A I am not aware of that. It would be a logical procedure.

Q Who made the final decision not to include that in the January 23 memorandum?

A It depends on how you look at the decision-making process. I did not include it. We discussed it. It was not thereafter included.

Q Mr. Mullen said that "the ultimate decision would have been mine" -- meaning his.

A It would have been.

Q When Mr. Mullen testified that the FBI had "located no reference to Mr. Donovan or Schiavone Construction Company" in FBI wiretaps, was that testimony accurate?

MR. OLSON: Which testimony are you referring to?

SENATOR HATCH: Before the Committee.

MR. OLSON: What page are we referring to?

SENATOR HATCH: Page 257.

MR. OLSON: This is a reference --

SENATOR HATCH: Down to the bottom part of the page where it says -- a little bit below the middle where it says "The Chairman: Neither Mr. Donovan nor Schiavone" -- above that. A little bit below the middle.

"The Chairman: Your unit has investigated everyone of these wiretaps and the information and data on them and is it correct to say that you have found absolutely nothing pertaining to Schiavone Construction Company?

"Mr. Mullen: That is correct, Senator."

Are you with me?

MR. OLSON: I am with you. I didn't mean to interrupt. I was going to state for the record that this is a reference to the January 27 hearing.

SENATOR HATCH: Right.

BY SENATOR HATCH:

Q "Mr. Mullen: That is correct, Senator. In each case, when we do have a court-authorized wiretap, we must record the identity of every individual or company referred to and maintain those records known as overhears and we located no reference to Mr. Donovan or Schiavone Construction Company.

"The Chairman: Neither Mr. Donovan nor Schiavone has been mentioned in any of these investigations?

"Mr. Mullen: That is correct."

That is what I am referring to. Now he testified that way.

Now the question I have is since you knew that was not true, how could you permit him to so testify?

MR. OLSON: I object to the characterization that the testimony was not true.

SENATOR HATCH: Let us put it "inaccurate."

MR. OLSON: I object to that characterization. Mr. Mullen has testified with respect to that. He has testified that he was referring to -- he thought you were referring to New Jersey and that his direct or opening statement to the Committee referred to New Jersey.

SENATOR HATCH: O.K.

BY SENATOR HATCH:

Q With that in mind -- you were there at the time, weren't you?

A I was.

Q Is there any reason why you didn't correct him at that time or any reason why anybody didn't correct him who knew that that testimony, if we meant it generally, not just New Jersey but New York, that that testimony would have been inaccurate, even though Mr. Mullen did testify that he felt we were referring only to New Jersey?

A Well, Senator, I believe we had a meeting prior to our testimony on 1-27. I believe that was on 1-26 with you and Senator Kennedy and the scope and focus of that meeting was with regard to wiretaps in the State of New Jersey, the number of them, and we were specifically speaking about the State of New Jersey at that time. It was my impression and understanding that that is what your question referred to and as such Mr. Mullen answered it accurately, in my opinion.

Q You are saying that the reason he did not tell us about New York is because he did not feel, or you did not feel that we did not--that we specifically asked him about New York?

A I can't speak for Mr. Mullen, but from my own experience before the Committee, I thought that reference was definitely New Jersey, and I didn't give New York any consideration. I didn't think that is what you were asking.

Q You had to know that we were interested in wiretaps with regard to Donovan, and whether Donovan or Schiavone was mentioned on those wiretaps.

MR. OLSON: What is the question?

BY SENATOR HATCH:

Q Is there any reason why there was no inclusion of New York at that time, just to help the Committee to understand that there were wire taps where Donovan was mentioned, and Schiavone Construction Company?

A Senator, we were trying to be responsive to your question, given the frame of reference at the time. We thought you were talking about New Jersey. Your interest in wiretap was not elicited specifically, and we didn't direct our answer there.

Q My point is, why did you check the wire taps at all? You knew there were no New Jersey wiretaps where there were mentions.

A I believe that the purpose of providing you with the information concerning the total number of wiretaps in the State of New Jersey since the inception of the Title III law was to indicate to you or demonstrate to you and Senator Kennedy that there had been a large number of them, and that Schiavone Construction Company and Mr. Donovan's name had not appeared.

Q When was the decision made to inquire whether there was any reference to Donovan or Schiavone on any wiretap in New Jersey?

A I don't think there was a specific decision. That information would be forthcoming from a check of our indices, ELSUR Indices, or the indices--or ELSUR Indices in the Newark office.

Q Do you know who would have made that decision?

A It would have been a procedural thing, Senator. The checks just normally have been made.

Q In any applicant investigation?

A In any applicant investigation, the indices of the recipient office are always checked concerning the appointee. They are usually checked concerning the--a significant employer, if there is some sort of a reason to do that.

Q If that is so, then why wasn't that done between December 30th and January 5th?

A I believe it was, Senator.

Q It was.

Now, you checked the New Jersey wiretap references after you actually discovered a wiretap reference on the Masselli tapes, is that correct?

A I believe it is accurate to say we rechecked.

Q But you did discover the wiretap reference on the Masselli tapes, right?

A We did, not in New Jersey.

Q Okay.

And it is true that you found no reference to Donovan or Schiavone on any wiretap in New Jersey?

A That is true.

Q Okay.

So as of January 27, 1981, the only wiretap reference that you knew of was the one you discovered on January 10, 1981?

A In New York.

Q Right.

You made a decision, therefore, not to mention that wiretap noticed, unless you were asked the direct question pertaining to it, is that correct?

A We made a decision not to include it in the 1-23 memorandum. However, if a direct question would have been posed, we would have answered it. Preferably, Senator, that would have been in Executive Session.

Q You would have asked for an Executive Session on that basis?

A Yes.

Q We did have a prior meeting with you on the 26th. Why didn't you bring it up to our attention at that time, so that you could have requested an Executive Session, to be able to tell us about it?

A I think that is a matter of perception, Senator. We did not think that that particular overhear--not overhear, that particular mention of Mr. Donovan's name was particularly significant or surprising, given the context of the business relationship of Schiavone and Jopel. It wasn't a matter of major importance in my mind.

Q Yesterday, on page 445 of the transcript, at the bottom of the page, I say, "But I am asking you how you would characterize it."

Your answer was, "I would say that it was pertinent information in that it referred to this investigation of Mr. Donovan. It was certainly important. It was a significant turn in the investigation."

Now, that seems a little different from what you are saying here today.

MR. OLSON: I will ask the witness to refer to the context in which that testimony was given, in particular reference to the time period that the witness was discussing.

SENATOR HATCH: We were discussing, if you look back on page 444, in the middle of the page, "QUESTION: Did you consider that information in that teletype important or serious and/or pertinent? I might mention that Mr. Mullen did testify that the information contained in your memo of January 12, '81 was important, serious and pertinent. And your memo says that the tape reference was pertinent, that you personally considered the information on that teletype important, serious and pertinent.

"MR. OLSON: I will just observe that you are characterizing testimony of the previous witness."

I say, "Right."

"MR. OLSON: The testimony, of course, speaks for itself."

"SENATOR HATCH: Sure.

"MR. OLSON: You are asking a question of this witness, how he characterized it.

"SENATOR HATCH: Yes, I think I have fairly characterized it, but I am asking you how you would characterize it."

And that is when you said, "I would say that it is pertinent information, in that it referred to this investigation of Mr. Donovan. It was certainly important. It was a significant turn in the investigation."

MR. OLSON: And I think the record will reflect that you were inquiring with respect to the witness' state of mind on or about January 12, 1981.

SENATOR HATCH: Right.

THE WITNESS: On January 12, 1981, it was a significant turn. On January 27th, or 26th, we had had an opportunity to look into the substance of the information and attempt to go further than what we had on the 12th. We found nothing particularly sinister in the incidence.

BY SENATOR HATCH:

Q Did you disprove, in any way, that Mr. Magrini had any associations with the Genovese crime family?

MR. OLSON: Are you asking as of January 27th?

SENATOR HATCH: As of January 27th.

THE WITNESS: I am sure we didn't disprove that he had--

BY SENATOR HATCH:

Q You are sure you did not disprove?

A Did not disprove.

Q Did you disprove that Massolli was a soldier in the Genovese crime family?

MR. OLSON: As of January 27, 1981?

SENATOR HATCH: As of January 27, 1981.

THE WITNESS: We did not prove or disprove that.

BY SENATOR HATCH:

Q Did you determine whether or not DeFilippis was a target of investigation or not?

MR. OLSON: In January 1981?

SENATOR HATCH: As of January 27, 1981.

THE WITNESS: I don't know.

BY SENATOR HATCH:

Q Did you disprove, prove or disprove, that Mr. Donovan had attended a social function, as mentioned in the tape?

A I don't think we have proved or disproved that to this date.

Q Did you prove or disprove that Jopel was taken over by force, fraud and extortion, or that Nargi was pushed out of his own business?

A I don't know. I wasn't aware of that information at the time.

Q Nevertheless, no one at the FBI, even under those circumstances, included the Masselli tape reference.

MR. OLSON: I object to the question on the grounds that it is argumentative.

SENATOR HATCH: On January 27, 1981.

MR. OLSON: It is argumentative a question.

BY SENATOR HATCH:

Q But that is true, that you did not include any reference to the Masselli tape on that memorandum?

A In fact, there is no reference to the Masselli tape in the January 23rd memorandum.

Q Okay.

Even relative to the New Jersey wiretap, was Mr. Mullen accurate in testifying that there were no references to Mr. Donovan or Schiavone Company in the New Jersey wiretap?

A I believe that is what our records show.

Q Okay.

Isn't it true that references, as opposed to overhears, were not maintained on the New Jersey wiretaps? In other words, on the New Jersey wiretaps, you actually had to be a participant in the wiretaps. You had to be a participant on the telephone. You had to actually speak in order to be mentioned, is that correct?

A I believe that the existing rule, and the rule that would have been in effect at that time was that it was mandatory that all participants be recorded, put in our indices, and it was optional as to whether or not the person is referred to. That is an indexing procedure in any of our investigations. The agent is able to index whatever he desires.

Q So this is speculative, but there actually could have been any number of references to Mr. Donovan and other Schiavone officials on the New Jersey wiretaps, isn't that possible?

A It would be possible, but it would be unlikely, if they were not involved--it would be--let me rephrase that.

Anybody involved in the criminal activity in the

State of New Jersey, it would be likely that they would be indexed.

Q But if they were not known to be involved in criminal activities, it would be unlikely they would be indexed, right?

A If there was no indication of that on the tape recording, or from the wiretaps, then it is possible that they would not be indexed.

Q And up to today there is really no indication other than allegations that Mr. Donovan was ever involved in any criminal activity in New Jersey?

A Not to my knowledge.

Q So there could actually have been any number of references to both Mr. Donovan and other Schiavone officials in the New Jersey wiretaps but they just wouldn't have shown up the way they were indexed?

A If there was no indication of any criminality, they probably would not been included in the indices.

Q The FBI received the allegations about the relationship between Mr. Donovan and the Schiavone Company and Mr. Masselli on January 8, 1981. I think we have established that. The Picardo allegations were received five days later on January 13th. I think we have established that, right, those two things?

A Part of the Picardo allegations were received at that time.

Q Okay.

The FBI then conducted an extensive investigation of the Picardo allegations between January 14, 1981, and January 23, 1981, is that correct?

A I believe the investigation continued on past the 23rd.

Q But at least between those dates, you conducted an extensive investigation?

A That is correct.

Q And most of the January 23rd, 1981, report deals with that investigation. Is that correct?

A That is correct.

Q However, the January 23rd, 1981, report reflects no investigation of the allegations about the Masselli relationship. I think we have established that, have we not?

A I believe we commented that there is a relationship with organized crime figures on a business and social basis and we mentioned Mr. Masselli's name and the Jopel Construction Company -- or the Jopel Company in the 1-23 memorandum.

Q But the memorandum indicates no investigation was being made of these.

MR. OLSON: If you are asking the witness what is in the January 23 memorandum, I believe, (a) the memorandum speaks for itself as to what it contains, and if you are going to ask him to recite from memory what is in it, I will ask him to read it.

SENATOR HATCH: That is fine.

BY SENATOR HATCH:

Q I think all I am asking is the memorandum really doesn't reflect any investigation of the Masselli relationship. In your opinion, does it?

MR. OLSON: Senator, you are asking him to characterize the --

SENATOR HATCH: Sure, his own writing about the memorandum, in the memorandum.

MR. OLSON: The document speaks for itself.

BY SENATOR HATCH:

Q All right.

What investigation, as of January 23rd, 1981, was actually conducted of the allegations concerning the Masselli relationship? And might I ask were the informants recontacted?

A During this whole investigation, informants were contacted, recontacted, concerning the different aspects of different nuances of the investigation. I can't speak with authority if certain informants were recontacted but I am sure that many were. In attempting to establish the nature of the relationship, we did contact informants for that purpose.

Q Did you interview Mr. Magrini?

MR. OLSON: I think that has been asked and answered.

SENATOR HATCH: Let me just get it again for the record at this point so we have it.

BY SENATOR HATCH:

Q As of January 27, '81?

A Not to my knowledge.

Q Mr. Masselli?

A No.

Q Mr. Defellipis?

A No.

Q Did you conduct any investigation to determine the relationship between Mr. Donovan, the Schiavone Company and Mr. Masselli as of January 27, 1981?

MR. OLSON: Other than as he has already testified?

BY SENATOR HATCH:

Q Other than as you have already testified.

A Not to my knowledge.

Q Did you interview any other Schiavone officials as of January 27?

A I believe we interviewed quite a few Schiavone officials.

Q But you did say you went back to the informants?

A I believe we did, yes.

Q Okay.

Now, when you say you interviewed a number of Schiavone officials but not Magrini, why not?

A The Schiavone officials that we interviewed were interviewed basically in an attempt to do an extensive record search of over 90,000 checks, voluminous documents. Those interviews occurred in that context.

Q These were with regard to the Picardo allegations?

A Based on the Picardo allegations.

Q Did you interview any Schiavone officials with regard to the Masselli allegations?

A I can't speak with authority on that.

Q Do you know if DiCarolis was interviewed regarding the Masselli allegations as of January 27th?

A I can't speak with authority on that.

Q So you just don't know?

A I don't know.

Q Were you in charge of this investigation?

A Yes, I was.

Q So, as far as you know, you didn't direct anybody to contact Magrini, DiCarolis or any other official with regard to the Masselli investigation or allegations before January 27?

A I did not specifically direct anybody to conduct that investigation. That is usually handled by the case supervisor.

Q On page 260 of the hearing record, there is this exchange, it is the bottom quarter of the page.

"Mr. Adamski: There is no place to go, no place logical to go at this time. You have to have a specific allegation and a specific direction. We do not have that.

"The Chairman. You are saying that all leads you have had in allegations that have been made by informants have not proven to be correct or true and verified.

"Mr. Adamski: We have not been able to corroborate the informant information or allegations."

What effort had you actually made to do so?

MR. OLSON: I will ask the witness to review the immediately preceding testimony so we can understand the context of those questions.

SENATOR HATCH: Sure.

BY SENATOR HATCH:

Q See, what I am leading up to, Mr. Adamski, couldn't an investigation been made of these allegations similar to the investigations that were made of the Picardo allegations? At the time, remember, the Picardo allegations were exciting and newsworthy, and everybody was interested in them. But it seems to me the Masselli allegations were as important, if not more so.

MR. OLSON: Let me interrupt, Senator, by observing that the Picardo allegations related to a specific transfer of money --

SENATOR HATCH: But the Masselli allegations referred to more current allegations in time and specific contracts and a specific taking over of a whole company and a specific relationship with one of the most notorious Mafia families in America.

I might add, on a federally-funded project.

MR. OLSON: In connection with the statement you just made, included information that the witness testified he did not have at that time. The Picardo allegation involved different issues. So I am not sure I understand your question.

SENATOR HATCH: See, one of the reasons for this inquiry is because that information was available, and if he didn't have it, he should have had it.

Now, what we are trying to do here, in addition to trying to satisfy the Committee as to why these matters were not timely received, is to establish how we might better resolve these issues so we don't have the problems in the future.

You know, there were newspaper articles where we found out more about what was going on than what we were told by the FBI.

MR. OLSON: Well, I am not going to engage in argument --

SENATOR HATCH: Which proved to be true.

MR. OLSON: What proved to be true?

SENATOR HATCH: The newspaper articles.

MR. OLSON: Well, I don't know which newspaper articles you are referring to. I don't know what --

SENATOR HATCH: Some of the exhibits in this record in February and March of 1980. I refer you to the New York Times Blum article on the Masselli tapes on February 14th; the New York Times Blum article on March 26th. And there are others throughout this process where newspaper people found out about these matters before we did.

MR. OLSON: Well, is the purpose of this at this point in the proceeding to engage in a debate as to the thoroughness of the investigation and what could have been found out if everyone had access to every newspaper article in the country?

SENATOR HATCH: Well, I think part of the question that should be asked is this is part of the SPIN investigation. Mr. Adamski is supposed to conduct -- you know, if he is in charge of this investigation, or whoever is in charge of conducting the investigation, is supposed to conduct a morgue check as well of newspaper articles and what they have to say.

MR. OLSON: And then I gather your question is whether --

SENATOR HATCH: The question is whether he did it.

MR. OLSON: What kind of check of newspaper articles?

SENATOR HATCH: They call them morgue checks is my understanding.

We will let the witness answer any kind of check they do on newspaper articles that contain information that were -- that really was not included in the materials given to the Committee.

MR. OLSON: Did those newspaper articles refer to Mr. Donovan?

SENATOR HATCH: Not the Blum article.

MR. OLSON: Or to Schiavone Construction Company?

SENATOR HATCH: But they did refer to Masselli, Jopel and the serious allegations.

Let me ask a specific question of the witness.

BY SENATOR HATCH:

Q Did you conduct a newspaper examination or examination of newspaper articles pertaining to these matters?

MR. OLSON: What matters?

SENATOR HATCH: Donovan, Jopel, Masselli, do I have to go through the whole thing? Everything pertaining to this Donovan investigation from Picardo to Jopel to Masselli to the Genovese family to the Super Bowl trip. You name it.

MR. OLSON: The question is did the witness or anybody --

SENATOR HATCH: Anybody working with him or for him --

MR. OLSON: Or under his supervision conduct a newspaper check of everything, all those subjects you mentioned, all the subjects that are in the January 23 report, all the subjects that --

SENATOR HATCH: Anything the Committee would be interested in in this matter.

MR. OLSON: Did you do that?

THE WITNESS: No.

BY SENATOR HATCH:

Q Did you conduct any kind of newspaper checks at all?

A While it is established as a procedure in SPIN investigations of recent years, many newspapers don't allow us to check their newspaper morgues. I am not sure whether or not this particular case the papers and the offices covered allowed us that privilege.

Q Doesn't the Justice Department have a computerized file, I think it is called nexus, of the various newspaper articles?

A I am sorry, I am not familiar with that.

Q You are not familiar with nexus?

A Nexus, no.

Q Did you make any checks into the grand jury investigation in the Southern District of New York concerning Jopel and Masselli's relationship with Schiavone?

A Not to my knowledge. I don't think we were aware of the grand jury proceedings at the time.

Q Have you personally read the Special Prosecutor's report?

A No.

Q O.K. Now a review of this Special Prosecutor's report indicated -- if you can tell us, why were the interviews of Cosmo and Anthony Balio on January 12, 1981, which tended to corroborate part of Picardo's story, not included in the report? Now we found that information in the Special Prosecutor's report on pages 408 to 410.

MR. OLSON: May the witness have those pages and any pages that relate to that subject? The Special Prosecutor's report is something in excess of a thousand pages, as I understand.

SENATOR HATCH: The published report is about 700 but it is an extensive report, no question about that.

BY SENATOR HATCH:

Q On page 408 it says under "Cosmo Balio," the statement to the FBI:

> "On January 20, 1981, agents of the FBI interviewed Cosmo Balio in conjunction with the pre-confirmation investigation of Mr. Donovan. According to the teletype report of interview, Balio advised that he was the former owner of BNR Transport headquartered in Frankfort, New York and having a terminal at 810 Canal Avenue, North Bergen, New Jersey. Balio advised BNR operated at North Bergen, New Jersey, from approximately 1960 to 1972 with approximately three months in early 1969 when it was closed down because of Federal liens

against the firm. Ralph Picardo was affiliated with BNR."

Then it goes on to state in the last paragraph that he stated that:

"BNR hauled for Schiavone Construction because of Picardo's influence with the company."

Now again, my question is why were the interviews of Cosmo and Anthony Balio on January 20, 1981, which I believe tended to corroborate part of Picardo's story, not included in the report?

MR. OLSON: You are asking the question without asking him to accept your characterization?

SENATOR HATCH: Assuming that the Special Prosecutor's account here is correct, that there was an interview on January 20, 1981 by agents of the FBI, why wasn't it included?

MR. OLSON: I will ask the witness to be sure he reads the pages that relate to that subject matter.

SENATOR HATCH: Sure.

THE WITNESS: This is the first time that I am personally aware of this interview.

BY SENATOR HATCH:

Q So you just didn't know about this to include it?

A That is not to say they were not interviewed. I just have no personal knowledge of it.

Q O.K. Assuming these interviews took place, how is the headquarters or your office notified?

MR. OLSON: Excuse me.

BY SENATOR HATCH:

Q Assuming those interviews took place, how would you or your office have been notified? What would have been the obligation of the agents who interviewed to notify your office of those allegations?

MR. OLSON: I am not sure I understand which allegations you are talking about.

SENATOR HATCH: Well, any allegations pertaining to the -- the investigation and interview with regard to Mr. Balio and Cosmo?

MR. OLSON: Is this -- are these pages, have they been marked and are they part of the transcript?

SENATOR HATCH: I believe they are. I don't know which exhibit they are. We will be happy to make them. Exhibit 25, I -- no, no, excuse me.

While we are looking that up, why don't you answer the question?

MR. OLSON: Well, I think they should be made a part of the record.

SENATOR HATCH: I will be happy to that but you can still answer the question.

MR. OLSON: Because part of the document says that Balio was also unaware of any illegal acts perpetrated on the part of Picardo to get business from Schiavone Construction or to promise labor peace.

SENATOR HATCH: Exhibit 28. I think they are included within Exhibit 28.

BY SENATOR HATCH:

Q Now can you answer the question, if you will?

A If these people were interviewed as part of the special inquiry investigation, then they would be considered as part of the number of people interviewed by whatever office interviewed them, in this case probably Newark.

Q Probably what?

A Probably Newark. If, however, they had no positive information concerning any wrongdoing or criminality on the part of Mr. Donovan or Schiavone Construction Company, the interview could be forwarded as a negative contact.

Q Of course, this was done particularly to corroborate or to disprove what Mr. Picardo said.

A I don't know that, Senator.

Q You don't know whether that is so or not?

A I don't know whether that is so or not.

Q Wasn't that part of the investigation that you were conducting between January 13 when Picardo surfaced and the January 23 report?

MR. OLSON: The question is argumentative. He testified he cannot recall knowing about that particular interview.

SENATOR HATCH: Well, I am asking if he would refresh his recollection and if he can, to determine whether or not that was part of the overall investigation being made pursuant to the Picardo allegations.

THE WITNESS: Senator, coming from the Special Prosecutor's report at that period of time, I believe Mr. Picardo was involved in several investigations being conducted by the FBI, not only the SPIN investigation.

BY SENATOR HATCH:

Q The allegation on page 284, page 284 of the hearing transcript -- there is the following exchange, a little bit below the middle -- in fact it is the last statement on the page.

> "Chairman: Allegation No. 6 is that an unnamed source reported that Picardo and two other individuals made pick-ups from Mr. Donovan for Salvatore Briguglio. Would you tell us what your investigation revealed?"

Mr. Mullen's answer was:

> "I believe you mentioned that earlier. We located the source of the allegation and he denied the allegations."

Now as I understand it, that source was Fred Furino. Are you aware of that?

A I am not aware that that source was Fred Furino.

Q Do you know who the source was?

MR. OLSON: Excuse me one minute.

BY SENATOR HATCH:

Q I believe it says right in the report you wrote, this is Exhibit No. 30, an excerpt from the January 23 report, where it says that Fred Furino was interviewed on January 22, 1981. He advised that he was former vice president of the International Brotherhood of Teamsters Local 84, Fort Lee, New Jersey, from 1963 to '65. Furino stated that he considered himself one of Sal Briguglio's closest friends. He states he does not know Raymond Donovan and is unaware of, Briguglio, Picardo or Al Cohen receiving payments from Donovan or SCC. He advised he would be willing to submit to a polygraph in this matter.

Did you write that?

MR. OLSON: This is a reference to page 15 of the January 23 report?

SENATOR HATCH: .Right, listed as Exhibit 30.

THE WITNESS: I don't recall if I wrote that paragraph or not.

BY SENATOR HATCH:

Q Do you now recall the information contained in that paragraph?

A I recall the information contained in that paragraph.

I don't specifically put it together with the information here on page 284 of the hearing transcript. But in answer to your question, I don't know the identity of any of the informants or sources that were used, to the best of my knowledge.

Q Do you know if Mr. Furino offered to take a polygraph test?

A It says so in page 15.

Q Do you know if he was given a polygraph test?

MR. OLSON: In connection -- during January of 1981?

SENATOR HATCH: Sure. Prior to January 27.

THE WITNESS: I think I would have been aware of that and I don't think we have the authority to give a polygraph in those circumstances.

BY SENATOR HATCH:

Q I would take it if he had taken a polygraph test, it would have been indicated in the record most likely, wouldn't you think?

MR. OLSON: Calls for speculation.

THE WITNESS: While it is speculative, I would have included that --

BY SENATOR HATCH:

Q If you had known?

A Right. But the chances of that occurring in an applicant investigation where we don't have the tools of a criminal investigation are extremely unlikely.

Q Okay.

The January 23rd, 1981, report which is listed as Exhibit 20 at page 4 states that, "Picardo said he was associated with Armand Faugno, a reputed crime figure, who originally extorted funds from SCC."

Is that correct? Armand Faugno, A-r-m-a-n-d F-a-u-g-n-o.

MR. OLSON: Which paragraph are you reading from?

SENATOR HATCH: Page 4, first paragraph, where it is underlined.

THE WITNESS: I see the reference, Senator. Your question?

BY SENATOR HATCH:

Q Well, that is correct, isn't it, that that is what it says?

A That is what it says.

Q Okay.

And that is what Picardo said?

A It is not directly quoted. That is what he told us.

Q That is what he basically told you. According to your report, on page 2, this is the 23rd report, at page 2, "Picardo said he worked for Mr. Cocchi at O. K. Trucking."

Is that right?

A He gave us that information.

Q Now, Picardo said that Briguglio secretly owned the company, is that correct?

A That is what Picardo alleged.

Q Now, you were aware that Armand Faugno was a reputed organized crime figure, is that right?

A Not of my own personal knowledge, but that is what Picardo alleged.

Q Do you know from any other sources other than Picardo about Armand Faugno being a reputed organized crime figure?

A I believe I read a newspaper article in the New Jersey Bergen -- Bergen, New Jersey, paper about it.

Q Do you know, can you remember, approximately what month or year did you read that article?

A It was subsequent to the investigation.

Q Do you know of what organized crime family Faugno was reputed to belong?

A No.

Q Isn't it a fact that Mr. Faugno was a victim of what the FBI believed was a mob execution?

A That is what Mr. Picardo alleged.

Q Do you know how he was killed, Faugno?

A I am not sure that we are sure he is killed.

Q Was there ever any effort to check that out?

MR. OLSON: Excuse me. Neither one of us heard what your question was.

BY SENATOR HATCH:

Q Was there ever any effort made to check that out, whether Mr. Faugno was killed?

MR. OLSON: In connection with the SPIN investigation?

SENATOR HATCH: Yes, in connection with Mr. Picardo's allegations.

BY SENATOR HATCH:

Q You talked to Mr. Cecchi. My question is why didn't you try to talk to Mr. Faugno?

A As I recall, Senator, Mr. Picardo alleged that not only Mr. Faugno's background, but he also alleged that he was dead. He also alleged that Mr. Cecchi was dead. Mr. Cecchi in fact was not dead and called our office to advise us of his opinion of Mr. Picardo.

Q Which I take it was not very high?

A To the best of my recollection, it was not.

Q As for Briguglio, do you know that he was a reputed member of the Genovese family and that he also was a victim of mob execution?

A I am aware that that is what Mr. Picardo alleged. I have also subsequently read some newspaper articles on it. I don't think I have put them into the Genovese family, but I am aware of it, of his background. Could be.

Q Wasn't it -- now, it seems like my recollection is that it was within a week after the FBI asked Briguglio to cooperate with them that he was killed.

A I don't know, Senator.

Q You don't know.

Did you make any efforts to find anything out about that?

MR. OLSON: Are you --

SENATOR HATCH: During this investigative time.

MR. OLSON: Is your statement relative to asking that individual to cooperate in connection with the SPIN investigation, or does it have to do with something --

SENATOR HATCH: Back in 1978 when he was killed. It wouldn't be during this investigation. I think he was killed about March or -- in about March of 1978.

BY SENATOR HATCH:

Q Now, wasn't his death or his killing within a week of the FBI asking him to cooperate in the HOFEX investigation?

MR. OLSON: What does this have to do with the Donovan SPIN investigation?

SENATOR HATCH: Because Briguglio was allegedly the person who handled Picardo who allegedly picked up extortion payments from Schiavone.

MR. OLSON: I think that we are drifting very, very far afield from the Donovan SPIN investigation.

SENATOR HATCH: Well, the --

MR. OLSON: I object on the grounds of relevance.

SENATOR HATCH: The reason I ask is the

investigation was -- I think it is critical. The investigation was being conducted to corroborate or to prove or disprove Mr. Picardo's allegations that he worked for Briguglio.

THE WITNESS: I think, Senator, that would have been limited by Briguglio's death. He would have been the one to provide us the corroboration.

BY SENATOR HATCH:

Q Now, you have already said that Picardo had said that he believed Cocchi was dead and, according to your report, at page 14, that is Exhibit 20, Mr. Cocchi contacted the Newark office himself on about January 20, 1981.

Now, did he just walk in or did he call?

A I am not sure, Senator, but I believe he called.

Q Did he volunteer to be interviewed?

A It is my impression, and I don't know this to be facts, that he just told us what he wanted to tell us.

Q According to your report, he said that he did not know Armand Faugno. Is that right?

MR. OLSON: Is this a reference to that first paragraph on page 14?

THE WITNESS: Senator, that is apparently what he told us.

BY SENATOR HATCH:

Q Did that make you suspicious, that he volunteered to be interviewed at that time? Or did it make your agents suspicious, if you know?

A I really don't know.

Q Well, he called Mr. Picardo a liar. Isn't that correct?

A That is correct.

Q Now, the FBI interviewed Mr. Cecchi on January 22, 1981, as I understand it.

Is that your recollection?

MR. OLSON: Are you referring to a page in the report? It says he -- page 14 says he contacted the Newark office on January 20. If there is another paragraph we should be referring to --

SENATOR HATCH: This is an interview with Albert Cecchi which we will mark as Plaintiff's Exhibit -- not Plaintiff's but --

MR. OLSON: I hope you don't mean plaintiff.

SENATOR HATCH: Committee Exhibit No. 43.

(Exhibit No. 43 was marked for identification.)

BY SENATOR HATCH:

Q This exhibit indicates that it was taken down on January 22, 1981.

MR. OLSON: Is this from the Special Prosecutor's files?

EXHIBIT NO. 43

#43.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/28/81

Albert Cecchi, 45 Merritt Drive, Oradell, New Jersey, telephone number 385-6481, was interviewed and provided the following information:

Cecchi advised that he had a trucking firm called O. K. Trucking Company, which operated from the early 1950s, until approximately 1969, when the company went bankrupt. Cecchi advised that the offices for O. K. Trucking were located in Secaucus, New Jersey and later in Clifton, New Jersey. Cecchi stated that he knew Ron Schivone in the 1950s, when Schivone was starting up his construction company and Cecchi would help out by doing small jobs for Schivone or lending him equipment. Cecchi stated that any invoices or billing between O. K. Trucking and Schivone Construction, would have been in the late 1950s, and would have involved a dollar amount no greater than $1,200 total. Cecchi advised that he had no business dealings with Schivone Construction during the 1960s, that he recalls and knows of no billing to or payments from Schivone during this period of time.

Cecchi stated that Ralph Picardo came to work for O. K. Trucking some time in the mid 1960s, and that Picardo worked as a Terminal Manager at O. K. Trucking for approximately one and one half to two years. He stated that he let Picardo go perhaps in 1967, because Picardo was stealing from O. K. Trucking and was not doing the work that he was being paid for. Cecchi stated that Picardo was a liar as well as a thief and that Cecchi got to the point where he could not believe much of what Picardo said.

Cecchi stated that he knew of Sal Briguglio of Teamsters Local 560, Jersey City, New Jersey, during a time when that local was attempting to have O. K. Trucking become a union shop. Cecchi advised that trucks from O. K. Trucking would occasionaly do Gypsy work for Maislin Trucking, but that Briguglio representing Local 560, made him stop because the drivers were non-union. Cecchi stated

Investigation on 1/22/81 at Clifton, New Jersey File # Newark 161B-3133

by SA Richard E. Brandes sjd Date dictated 1/23/81 101511

Exhibit 51

...ment contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned

that while operating O. K. Trucking he used the name, Al Cohen, but that he was never a bagman for Briguglio nor did he ever pay Briguglio or anyone from 560 any money.

Cecchi advised that he has never heard of XYZ Leasing, and does not know an individual by the name of Donovan. Cecchi stated that he thought the allegation that Schivone Construction was paying money for labor peace was unfounded because the contracts that Shivone had did not really require labor peace. He stated that if a union that was working on a project with Schivone were to threaten a strike if they did not have more men on the job, Schivone would have been happy to put people on the job because the more people in it, bigger profits for Schivone. Cecchi also advised that if there was a strike which would have delayed the completion date, he would simply obtain a set back in the contracted completion date for the job being worked on.

Cecchi stated that any and all records of O. K. Trucking have been destroyed, and that the bookkeeper who worked for the firm was named Rose last name not recalled, whose present location is not known to him.

SENATOR HATCH: It was Exhibit 51 from the Special Prosecutor's, as I understand it.

MR. OLSON: I will ask the witness to -- is there a pending question?

SENATOR HATCH: Yes.

I asked if the FBI in fact interviewed Cecchi on the 22nd of January, right, of '81?

THE WITNESS: That is what this document indicates.

BY SENATOR HATCH:

E.

Q O.K. Now let me direct your attention to the FBI report of the interview of Cecchi by Special Agent Brandes. So you haven't seen this before?

A I have not seen this 302 before.

Q O.K. Was this -- was the information contained on this 302 originally transmitted by teletype?

MR. OLSON: I will ask the witness to read the document before he answers that question.

THE WITNESS: Senator, the information contained in that interview was greatly summarized and was furnished to us by teletype.

BY SENATOR HATCH:

Q Do you know whether Special Agent Brandes had any experience -- that is B-r-a-n-d-e-s -- had any experience in investigating organized crime allegations?

A I don't know Special Agent Brandes.

Q If you don't know that, could you find that out for us, whether he had had much experience?

MR. OLSON: That will be in the same procedure?

SENATOR HATCH: We will give you a letter asking for that.

BY SENATOR HATCH:

Q Do you know whether the agent asked Mr. Cecchi why Mr.Cecchi sometimes used the name Al Cohen?

MR. OLSON: Are you referring to Exhibit 43?

(Exhibit No. 43 was marked for identification.)

SENATOR HATCH: Yes, Exhibit No. 43.

BY SENATOR HATCH:

Q On page 2 it said he used the name Al Cohen, at the top of the page, but that he was never a bag man for Briguglio nor did he ever pay Briguglio or anyone from 560 any money.

A No, Senator, I don't. I have just what is here.

Q You don't know why he didn't ask that question, why he sometimes used the name Al Cohen?

MR. OLSON: It presupposes that he did not ask the question.

SENATOR HATCH: Excuse me, what?

MR. OLSON: Your question presupposes -- you asked why the agent didn't ask --

SENATOR HATCH: Well, let me rephrase it.

BY SENATOR HATCH:

Q If he had asked why he was also using the name Al Cohen, wouldn't that have shown up here?

MR. OLSON: Calls for speculation.

BY SENATOR HATCH:

Q That would be normal FBI practice to check out aliases, wouldn't it?

A It is normal FBI practice to record aliases --

Q And to check out every bit of information about them.

MR. OLSON: In what connection?

SENATOR HATCH: Any connection.

MR. OLSON: Are you asking whether --

SENATOR HATCH: He did the investigation.

MR. OLSON: Whether when they talked to someone in connection with a SPIN inquiry, that they -- whether it is normal FBI practice to inquire into the reasons why a particular informant has used or uses other names. Is that the question?

BY SENATOR HATCH:

Q Let me ask you this: For what reason was Cecchi interviewed in the first place, if you know?

A The file number on this document indicates that it was part of the SPIN investigation. I would presume that once he made his identity known to the office and the fact that he still was alive, we went out and contacted him.

SENATOR HATCH: Let us take a 5-minute break at this point.

(Brief recess.)

BY SENATOR HATCH:

Q Do you know whether the agent asked what were the circumstances under which all of the records of the O.K. Trucking Company were destroyed.

MR. OLSON: Are you referring to a particular document?

SENATOR HATCH: The one we were just looking at and it is generally known by everybody that Cecchi indicated that the O.K. Trucking Company records were destroyed. He said they no longer exist on page 14 and in the interview on page 2 Cecchi stated that any and all records of O.K. Trucking have been destroyed.

Do you know if the agent asked what were the circumstances under which these records were destroyed?

A No, Senator, I don't. I only have this interview form.

Q Did the agent ever inquire if Mr. Cecchi was convicted of a crime, or had ever been convicted of a crime, if you know?

MR. OLSON: Does it have a reference to that in Exhibit 43 because the witness --

SENATOR HATCH: I think it was a lack of a reference. That is why we are asking the question.

MR. OLSON: Well, the witness says he doesn't know, other than what is in the document.

BY SENATOR HATCH:

Q Well, wouldn't it normally be procedure for felony convictions relevant -- wouldn't felony convictions be relevant to the credibility of a witness?

MR. OLSON: Of the informant.

SENATOR HATCH: Especially one who walks off the street into the office and starts giving information.

MR. OLSON: Are you asking whether there is a normal practice under those type of --

SENATOR HATCH: Yes, to check into those types of matters.

THE WITNESS: In this particular situation we have an applicant investigation going on. We have an individual who has been characterized for us by an informant. We have the individual presumed or believed to be dead initially. He calls the office. We go out and interview him. I don't know that we would have asked him about his personal background. But we certainly would have elicited from him any information concerning Secretary Donovan or the Schiavone Construction Company.

BY SENATOR HATCH:

Q It is our understanding that Mr. Cecchi has been convicted of a Federal crime in 1976. So let me just ask you if you will check that out for us and see if we are right on that.

MR. OLSON: On the same basis?

SENATOR HATCH: On the same basis.

BY SENATOR HATCH:

Q In an article dated February 8, 1981, which we will list in the record as Exhibit No. 44.

(Exhibit No. 44 was marked for identification.)

EXHIBIT NO. 44

Ex 44

8/20/82

The Sunday Record

New Jersey's Largest Evening Newspaper FEBRUARY 8, 1981

Questions raised on FBI probe of Donovan

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By Bruce Locklin

Investigative News Editor

An inquiry by The Record into the Federal Bureau of Investigation's report on Labor Secretary Raymond J. Donovan has raised questions about the thoroughness of the FBI's investigation.

The Record located and interviewed two men, both with past criminal associations, who have corroborated elements of the story told by Donovan's prime accuser, mob informant Ralph "Little Ralphie" Picardo. Perhaps most significantly, the men support parts of the Picardo story that were discredited by the FBI in its report to the Senate Labor and Human Services Committee.

Sen. Edward M. Kennedy, D-Mass., the committee's ranking minority member, is asking that the FBI reopen its investigation into Donovan based, in part, on The Record's findings. Neither of the two men, mob associate Phillip "Brother" Moscato and Al Cecchi, a convicted bootleg-tape manufacturer, gave any information linking Donovan to alleged wrongdoing. Both men admitted knowing Picardo, and they characterized him as a "stool pigeon" and a "born liar." However, they backed him in these areas:

- The FBI said it had found no evidence to

See QUESTIONS, Page A-19

Questions linger on FBI Donovan probe

FROM PAGE A-1

support Picardo's claim that Mascato had been a subcontractor for Donovan's company. But Mascato says that he subcontracted demolition and hauling jobs for the firm over a period of years.

● The FBI reported that Al Cocchi, the alleged front man in a payoff scheme involving Donovan, did not know the mobster who allegedly masterminded the plan. Cocchi now admits knowing the mobster, saying that he once asked him for a favor.

Donovan, who lives in Short Hills, declined comment last night but a lawyer who has been advising him during the confirmation hearings, Thomas H. Bruinooge, said he sees nothing in the new material to warrant reopening the investigation.

The Record gave a summary of its findings to the United States attorney's office in Newark, the FBI in Washington, and to staff members of the Senate Labor Committee. Subsequently, Kennedy issued a statement saying he would ask committee Chairman Orrin Hatch, R-Utah, to renew the Donovan investigation.

"These are very disturbing findings which ought to be pursued," Kennedy said. "I will recommend to Chairman Hatch that the FBI reopen their investigation of these matters."

Later, four Democratic senators who along with Kennedy abstained from the committee's vote on Donovan's nomination joined Kennedy in signing a letter urging Hatch to ask FBI Director William Webster to look into the Mascato-Cocchi and some other lingering questions about Donovan.

"Both of these findings lend additional credence to the statements of Ralph Picardo and require further FBI investigation," the letter says in part.

Hatch responded yesterday with a statement saying that the new disclosures will be evaluated by the Senate Labor Committee staff and that any substantive findings will be forwarded to appropriate agencies.

The Senate voted last week to confirm Donovan to his cabinet post after hearings during which the FBI reported that it was unable to substantiate many of Picardo's allegations, including his claim that he served as a courier delivering checks from Donovan to organized crime. The checks, according to Picardo, were payoffs made to ensure labor peace.

Picardo had told the FBI that the scheme was set up by mobster Armand "Cokey" Faugno, who arranged for payoffs to be issued by Donovan's firm, Schiavone Construction Co. Picardo said that he collected checks from Donovan that went to Sal Briguglio, a racketeer and a Teamster official, through O.K. Trucking, a front company secretly owned by Briguglio and operated by Al Cocchi.

Both Faugno and Briguglio are dead, considered victims of mob executions. In checking Picardo's story, the FBI interviewed Cocchi and gave the Labor Committee a four-paragraph summary of his comments, saying in part:

"Al Cocchi ... advised that during the 1950's and part of the 1960's, he operated O.K. Trucking. He recalled doing some work, but not much, for SCC [Schiavone Construction Co.] during the 1960's, but none during the 1970's. He stated Ralph Picardo was employed by him at O.K. Trucking, exact dates not recalled, but that he and Mr. Picardo did not get along. He said he had no knowledge of any payments by SCC for 'labor peace' and he stated he never made payoffs to Sal Briguglio. He advised ... the name Armand Faugno was not familiar to him. ... In Mr. Cocchi's opinion, Mr. Picardo is a liar."

In a telephone interview Friday, Cocchi changed his story and admitted knowing Faugno, the alleged architect of the Schiavone payoff scheme.

Cocchi, 54, was contacted by The Record at his Oradell home and asked about the FBI's assertion that he did not know Faugno.

"Who?" Cocchi asked. He also said he did not recognize the name when the mobster's nickname, "Cokey," was included.

Then Cocchi was told that after Faugno disappeared mysteriously in 1972, agents obtained access to the mobster's private-phone book and found Cocchi's name and number.

That jarred Cocchi's memory. He recalled that he once met with Faugno, who he believed was a "wise guy," and asked Faugno to intercede for him in a union dispute with Briguglio.

Cocchi maintained that Faugno's name was never mentioned when he was interviewed two weeks ago by an FBI agent. "He didn't ask me about Armand," Cocchi said.

He insisted that Briguglio was an old enemy of his, not a hidden owner of O.K. Trucking and that Picardo was an former employee now peddling untruths.

"This kid is a born liar," Cocchi said. "This kid can make up stories you can't imagine. He can make them realistic."

Another aspect of Picardo's story for which the FBI found no substantiation involved an alleged second link between the Schiavone company and the mob. According to the FBI report, at the same time Picardo was picking up SCC checks from Donovan, he "recalled being told by Briguglio that the Mascato Contractors were run by organized-crime elements and were subcontractors to the SCC, frequently as a means of ensuring 'labor peace.'"

The FBI determined that Phillip "Brother" Mascato was a reported organized-crime associate who once operated a dump site, but it added that the Newark Office of the FBI "has no information indicating his association with a Mascato Contractors or any connection between him and SCC or Mr. Donovan."

The FBI checked vendor cards at SCC and found no card for Mascato. In an interview, Ronald Schiavone, the company president, "advised he has never done business with a Mascato, but if this individual operated a dump site, SCC could have dumped clean fill dirt at the site at no charge."

Mascato is a flamboyant hoodlum from Jersey City who moved to Hallandale, Fla., in the mid-Seventies, when New Jersey authorities began jailing mob figures for refusing to testify about their activities. "Little Ralphie" Picardo made Mascato famous in 1975 when he prompted an FBI search of a dump that Mascato operated beneath the Pulaski Skyway in an unsuccessful search for Jimmy Hoffa's body.

Mascato used to operate several businesses, none called Mascato Contractors. Two of his more active firms in the building trades were City Construction and City Demolition.

Contacted Friday in Florida, Mascato said that he had indeed done subcontracting for the Schiavone company.

"Yeah, I did some work for them," said Mascato. "I don't know which [of my companies] it was, but we done work for them — demolition, hauling."

Asked how much work, he said: "I don't know. It was spread out over a period of years. ... It was 100% legit."

Mascato said he couldn't recall with whom he dealt at SCC: "Whoever the guy was who gave out the subcontracting work."

Asked if he ever met Donovan, Mascato replied: "I doubt it. I know of him, that he was one of the owners or bosses of the company. That's about it."

Mascato called Picardo a "stool pigeon" who is making up stories.

"I know Ralphie," Mascato said. "I know him from up in Union City born and all. He hung around all over. What is he trying to do, get Ray Donovan not to be secretary of labor?

"I think the kid's on the government payroll. Anytime he sees a name pop up that he knows, he's going to say something — true, false, or what — just to stay on the government payroll."

Ronald Schiavone, president of the Schiavone company, said yesterday that the FBI check of SCC records included a search for City Construction. "The FBI didn't know the name, but someone in the company knew that Mascato had that business, so we asked them to check that, too," Schiavone said. He added that he's sure that his company did no significant business with any Mascato firm.

Donovan's attorney, Bruinooge, said, "The bottom line of the whole thing is that the FBI report, by and large, came down on the side of Donovan, as well it should."

The lawyer said that there are powerful forces opposed to Donovan and that he suspects attempts to discredit him will continue forever.

"They've dug to China and they really haven't found the bone. I suppose they'll continue to dig and dig and dig, 15 more holes, until they find it. ... I don't think there's a bone, but then again, who the hell knows?"

Bruinooge, an Allendale councilman who worked with Donovan on President Reagan's New Jersey campaign, said that Kennedy's opposition to Donovan may be an attempt to find support in the constituency that elected Reagan — blue-collar, ethnic voters.

"I see the battleground emerging. That constituency is what both parties are after. If Teddy Kennedy is to remain viable, then he has to reestablish his base," the lawyer said.

Bruinooge said he was shocked by the fervor of the Donovan opposition, adding:

"There is a power structure out there, both in labor and perhaps in management, that doesn't want to see the situation change. I perceive that they realize that Donovan is going to change the situation. And that's why there's pressure."

The 50-year-old Donovan, who worked his way to become a principal and executive vice-president of the 1,500-employee Schiavone firm, summed up his situation this way at the confirmation hearings:

"I'm from a great state, but if you are in the contracting business in this country, you are suspect. If you are in the contracting business in New Jersey, you're indictable. And if you are Italian and in the contracting business in New Jersey, you're convicted."

Picardo never appeared before the committee but had annoyed committee Republicans by turning up on the NBC-TV "Today" show. He stood by his allegations, saying that he didn't think the FBI investigation was "extensive" and that agents should put more time "to go into it in depth."

The FBI's one-paragraph summation of Cocchi's story failed to disclose his criminal record. Cocchi pleaded guilty to federal charges in Newark in 1976 and was sentenced to a year in prison for violating copyright laws as a manufacturer of bootleg stereo tapes. His prison file was tagged "O.C." for organized crime, an identification Cocchi asserts was false.

Cocchi was at the edge of a 1972 investigation by The Record into the trucking industry that resulted in a raid of his Fairfield plant by United States marshals. So his name was known to the newspaper a few years later when a law-enforcement source provided information obtained from the phone book of missing mobster Armand Faugno. Included was Cocchi's name, his Oradell address, and unlisted phone number.

The Record telephoned that number Friday and Cocchi answered.

He admitted knowing Faugno only after being told how his number was obtained and then gave this version of how he met the mobster:

Before he started O.K. Trucking, he had another truck company and was doing freight business with a major hauler, Mosche Transport. His men were nonunion, and the Teamsters wanted him out. Sal Briguglio told him to scram.

Cocchi said he remembers that someone suggested — he doesn't remember who — that Briguglio might ease up if he talked with Armand Faugno. "That was the fella I went to one time for a favor. He was supposed to be some kind of a wise guy," Cocchi said. "I don't know the man other than I had a dealing, trying to straighten out my union problems."

The FBI's report said Cocchi told the bureau that he had done some work for Schiavone in the 1960's, "but not much."

But in talking with the newspaper, Cocchi described a close relationship with Schiavone over several years.

"Picardo says that I was getting checks from Schiavone and another outfit. Let me give you the brief on Schiavone, so this way you'll understand everything.

"When I met Schiavone, they were only patching sidewalks. I tell that to the [FBI] agent ... and I'll tell it to Jesus Christ. I patched sidewalks. I helped them with trucks. I helped with my forklifts for labor.

"Now they started getting contracts, patching the turnpike, patching tunnels, bridges. I used to spot their trailers, after they started getting bigger.

"Now at one time, they said to me, 'Al, as soon as we start buying dump trucks, you're going to get them.'

"That day never came.

"In other words, I would run the dump trucks. I would own the dump trucks, and I would lease the dump trucks to the [job] site.

"Now they started getting bigger. Now they got a job and they needed two cranes. ... I got them two cranes for $125,000 a piece in those days.

"That was the end. As sure as God loves me and I love God and I love my children, that was the end of Schiavone. ... Because after that, they bought dump trucks on their own and Al Cocchi was pushed aside."

Cocchi said that he never met Ray Donovan and that his dealings were with Schiavone's controller, Al Paradiso, and the company president, Ronald Schiavone.

Contacted yesterday, Schiavone said he had no recollection of any business dealings with Cocchi. The company president said that Paradiso is active in the Secaucus Chamber of Commerce, where he may have met Cocchi. Schiavone said that he's positive that Cocchi never helped the company buy cranes. He added that it's possible the company may have leased trailers from Cocchi because SCC leases from scores of vendors.

"You tell me, isn't it impossible to operate in New Jersey, or anywhere, and not rub shoulders with a guy like that?" Schiavone asked.

The FBI said that in its search of Schiavone records it found no checks paid to Cocchi or his company, but a few checks to another O.K. Trucking based in Springfield. Cocchi operated in North Bergen and Secaucus.

Mascato, 64, grew up in Jersey City's Horseshoe section, a 20-block area on the city's westside, along with Faugno and Briguglio.

A confidential FBI report on Mascato identified him as one of the top loan sharks in North Jersey in 1972. The FBI said then that Mascato's money sources were Faugno and Briguglio.

Mascato has close Teamster Union ties. When Teamster boss Anthony "Tony Pro" Provenzano was released from prison, the welcome-home party was held at a Jersey City restaurant operated by Mascato, the Lil' Red Buggy. After Mascato moved to Florida, he lent the use of one home he owns there to Chuckie O'Brien, Jimmy Hoffa's adopted son.

A 5-foot, 210-pound [illegible], Mascato has a flashy [illegible] among crime figures. Another mobster once said that "Brother" was too big a mouth to ever make the big time.

In discussing his relationship with the Schiavone, Mascato volunteered his endorsement of Donovan, support unlikely to be appreciated.

"I think Donovan's probably a 100-percent legitimate guy. I don't see why he shouldn't be. Why the hell should he screw around with someone. He's got a multimillion-dollar construction company."

The Democratic senators' letter to Hatch urges the FBI to review two other matters related to Donovan:

● Allegations made by another FBI informer, Pat Kelly. The senators say that specific allegations made by Kelly have not been followed up.

● Donovan's testimony in a 1977 Hudson County trial. Donovan reportedly testified that the Schiavone company bought 10,000 cubic yards of dirt from a private company that turned out to be selling land from the county-owned Lincoln Park. The Schiavone firm was not indicted. After a complicated trial, only three persons were convicted, of 31 indicted, and none were sentenced to jail.

In addition to Kennedy, the letter was signed by Claiborne Pell, D-R.I., Thomas Eagleton, D-Mo., Donald Riegle, D-Mich., and Howard Metzenbaum, D-Ohio.

Donovan's lawyer, Bruinooge, said that the Senate committee staff has been aware of the Hudson County trial for sometime and that Donovan's testimony there will withstand scrutiny.

Bruinooge said that the nomination hearings and the continuing allegations are having a great impact on Donovan and his family.

"It has strengthened and toughened Donovan, but I've seen the toll it's taken on his wife and children. I've lived with them. I've had dinner at their home. I know the heaviness and isolation that they felt. ... In spite of the fact that he and the president are extremely close and the president has ultimate confidence in him."

The lawyer added, "I'm convinced that [these charges] will go on forever. At some point, one of two theories is going to be proved. The problem is that in the process, Ray Donovan and his family will be destroyed. That's the problem."

-Federal budget

SENATOR HATCH: We have handed you an excerpt of the article we are marking. We only have one copy of Exhibit No. 44.

Is it underlined there?

MR. OLSON: There is an underlining.

SENATOR HATCH: Right in the underlined part --

MR. OLSON: We have a portion of the newspaper article. We do not have the entire newspaper article. We do not have the entire newspaper article.

SENATOR HATCH: That is the portion we are referring to. We will put the entire article in and try to get you a copy.

BY SENATOR HATCH:

Q The portion we are referring to is the portion that is underlined where it says the FBI's one paragraph summation of Cecchi's story fails to disclose his criminal record. Cecchi pleaded guilty to Federal charges in Newark in 1976 and was sentenced to a year in prison for violating copyrighting laws as a manufacturer of bootleg stereo tapes. His prison file was tagged OC, for organized crime; an identification Cecchi claims was false.

MR. OLSON: As matter of fairness to the witness, is it necessary for him to see that paragraph in its context or read any other portion of the newspaper article?

SENATOR HATCH: Let's give you the article that we will mark as an exhibit. We have got the thing excerpted.

MR. OLSON: Now, I don't want to take unnecessary time. Is it necessary for him to read the entire article?

SENATOR HATCH: No, no, it is not.

BY SENATOR HATCH:

Q Now, the record stated that when he asked Mr. Cecchi whether he knew Faugno, Cecchi said that he did not know Faugno or that he did know Faugno, excuse me.

MR. OLSON: That is another paragraph in the newspaper --

SENATOR HATCH: Yes, that is a paragraph in the second column. In a telephone interview Friday, Cecchi changed his story and admitted knowing Faugno, the alleged architect of the Schiavone payoff scheme.

Then, a little bit later, he recalls that he once met with Faugno who he believed was a "wise guy" and asked Faugno to intercede for him in a union dispute with Briguglio.

Now, the January 23rd, 1981, report, which is Exhibit 20, at page 5, states Briguglio told him that the Moscato -- M-o-s-c-a-t-o -- contractor was roughed by organized crime elements and was a subcontractor to the Schiavone Construction Company.

Now, is that right?

MR. OLSON: Is that --

SENATOR HATCH: On page 5.

MR. OLSON: You think that is a reference to the top paragraph on page 5?

SENATOR HATCH: Yes.

MR. OLSON: And your question is whether you correctly quoted?

SENATOR HATCH: Yes, or correctly summarized.

Let's just read it.

At approximately the same time Mr. Picardo recalls being told by Briguglio that the Moscato contract was run by organized crime elements and were subcontractors to the SCC, frequently as a means of ensuring labor peace.

Now, that is part of the January 23rd memo which you prepared. Is that correct?

THE WITNESS: That is correct.

BY SENATOR HATCH:

Q Who, if you know, is Philip Bernard Moscato?

A Philip Bernard Moscato I personally know to be referred to as Philip Brother Moscato, and he is alleged to be an organized crime figure.

Q Is he alleged to be a reputed member of the Genovese crime family?

A I don't know that.

Q Do you know that it was reported in -- do you know that it was reported that Hoffa was buried in Moscato's Dump after Hoffa was kidnapped in July 1975?

MR. OLSON: Are you referring to a particular FBI document or a newspaper article?

SENATOR HATCH: I just want to know if he knows that.

MR. OLSON: Has he heard that before?

SENATOR HATCH: Yes. Have you heard that before? And did you know that Picardo was the informant in that matter?

THE WITNESS: In the first place, Senator, I think this Moscato spells his name differently than Philip Brother Moscato. I had some information that Philip Brother Moscato had some involvement in the Hoffa investigation, but I was not aware that anybody's body was in his dump.

BY SENATOR HATCH:

Q Did you know that Moscato was reputed to be a loan shark?

MR. OLSON: Now, I guess we have on the record references to two Moscatos.

SENATOR HATCH: We are talking about Philip Brother Moscato.

THE WITNESS: I think I -- yes, I did know that there was an allegation that Philip Brother Moscato was a loan shark.

BY SENATOR HATCH:

Q Now, you reported on page 9 of Exhibit 20, the second paragraph there, "Records of the Newark Division of the FBI indicate that William V. Musto, State Senator of the State of New Jersey, is the subject of a current FBI investigation under the Racketeer Influence and Corrupt Organization Statute.

A That is what that says, yes.

Q I guess the bottom reference is the one I am referring to. You also state that the records of the Newark Division of the FBI did not disclose any reference to a Moscato Contractor or any connection between Moscato Contractors and SCC and Raymond Donovan. Is that right?

MR. OLSON: That is what it says.

BY SENATOR HATCH:

Q Were the HOFEX files among the records checked?

MR. OLSON: In connection with that paragraph?

SENATOR HATCH: Right. In the preparation of this January 23rd memorandum.

THE WITNESS: Since we would have checked the indices of the New York and Newark offices which had investigation with regard to the Hoffa disappearance, references to that case would have appeared had there been references.

BY SENATOR HATCH:

Q Did anybody interview Brother -- Philip Brother Moscato?

MR. OLSON: In connection with the Donovan SPIN?

SENATOR HATCH: Right, in connection with the Donovan matter.

THE WITNESS: Not to my knowledge during the course of the investigation.

BY SENATOR HATCH:

Q Any particular reason why not?

A There was no indication that Philip Brother Moscato was involved with anything to do with Mr. Donovan.

Q Do you know that when the Bergen Record's reporter interviewed Moscato in the newspaper article I have shown you, which is listed as Exhibit 44, that Moscato said he had done subcontracting work for Schiavone Construction Company? Are you aware -- were you aware of that?

MR. OLSON: Was he -- is he aware of the contents of the newspaper article?

BY SENATOR HATCH:

Q Were you aware of that allegation, that Moscato had done subcontracting for SCC during this investigation leading up to the January 27th meeting?

Now, that is found in the newspaper article on the second page, on the top paragraph, and in the -- towards the bottom of the second column. The top paragraph says, "Supports Picardo's claim that Moscato has been a subcontractor for Donovan's company" --

MR. OLSON: Which column is that?

SENATOR HATCH: On the second page. You have the original article there. On the second page, top left-hand column, where it says, "Supports Picardo's claim that Moscato has been a subcontractor for Donovan's company but Moscato said that he subcontracted demolition and hauling jobs for the firm for a period of years" -- or "over a period of years."

Then if you go to the bottom of that second column on that second page, right at the bottom it says, "Yeah, I did some work for them, said Moscato" -- we don't have that bottom line. What does the bottom line say there? After "Yeah, I did some work for them, said Moscato?"

MR. OLSON: It then says, "I don't know which [of my companies] it" --

SENATOR HATCH: Was, at the top, that we had done work for them, demolition and hauling.

Asked how much work, he said I don't know. It was spread out over a period of years. It was 100 percent legit.

Moscato said he couldn't recall with whom he dealt with at SCC. Whoever the guy was who gave us the subcontracting work.

Asked if he ever met Donovan, Moscato replied, "I doubt it. I knew of him." That he was one of the owners, bosses of the company. That is about it.

BY SENATOR HATCH:

Q Did you know about these facts yourself or have any allegations that would indicate the facts that the Bergen Record reporter is reporting in that document?

A I read the article.

Q That is all you know about it?

A That is all I know about it.

Q Had you read the article back then, before January 27?

MR. OLSON: The article was printed in--

SENATOR HATCH: Was the article printed? Excuse me. He couldn't have read it back then. When was it printed?

MR. OLSON: It says--the date of it is February 8, 1981.

BY SENATOR HATCH:

Q February 8th, 1981. Had you read it at or near that time?

A At or near that time.

Q Okay.

Well, did anybody in the FBI ever interview Moscato with regard to the Donovan matter? That is Philip Brother Moscato, the one who is quoted here in the paper.

A I am not sure that this is Philip Brother Moscato. Is that correct? I don't know.

MR. OLSON: The record will reflect--

SENATOR HATCH: We believe it to be Philip Brother Moscato.

MR. OLSON: Well, the newspaper article apparently does refer to that. However, I should point out, for the record, that it is a very, very long newspaper article, which apparently the witness has not read since February of 1981.

BY SENATOR HATCH:

Q Well, as I recall the Special Prosecutor's report, he later interviewed Philip Brother Moscato, and he not only said he did construction work for them, but that he knew Schiavone.

MR. OLSON: Who?

SENATOR HATCH: The Special Prosecutor.

MR. OLSON: The Special Prosecutor interviewed Moscato?

SENATOR HATCH: Yes, who confirmed basically the interview he had given to the Bergen Record.

MR. OLSON: And your question is whether the witness knows what the Special Prosecutor did in that regard?

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q Did you know that?

A I have not read the Special Prosecutor's report, nor do I know what he did.

Q Now, at any time, up to today, has the FBI interviewed Philip Brother Moscato with regard to the Donovan matter?

A I don't know.

Q Of course, that would be other than in connection with the Special Prosecutor's investigation. Some FBI agents may have been working for him.

MR. OLSON: I am sure they were. I don't think this witness knows the details of what the Special Prosecutor did, or who the Special Prosecutor interviewed, or who the FBI interviewed, in connection with the Special Prosecutor's task.

BY SENATOR HATCH:

Q But no effort even has been made to locate Moscato, Brother Moscato, during the Donovan investigation?

MR. OLSON: During the Donovan investigation by this--the Donovan SPIH investigation?

SENATOR HATCH: Right.

THE WITNESS: There was no indication that it was Philip Brother Moscato that was mentioned by Picardo. He referred to a Moscato Contractors, and we attempted to locate a Moscato Contractors. We did not.

BY SENATOR HATCH:

Q Okay.

Now, I refer you to the Special Prosecutor's report, Exhibit Number 32.

On February 9, 1981--

MR. OLSON: May I find that?

SENATOR HATCH: Sure.

MR. OLSON: Exhibit 32 that we have is a letter to you, Senator, from Mr. Mullen.

SENATOR HATCH: I am sorry. This is one we are going to put in. This is Special Prosecutor's Exhibit 32. I apologize. We will list this as Exhibit 45 for our purposes.

(Exhibit No. 45 was marked for identification.)

BY SENATOR HATCH:

Q Let me give you our exhibit copy.

Now, on February 9, 1981, Special Agent Hersh interviewed "A protected Government witness" as listed in that Exhibit Number 45.

Now, the informant said that he saw Donovan in the presence of Philip Brother Moscato in 1976 and 1977. Isn't that right?

MR. OLSON: I will ask the witness to read the exhibit.

SENATOR HATCH: Sure.

You may also, while you are reading that, look to see if he also saw that Moscato did business as Moscato Brothers Construction Company.

(Pause.)

BY SENATOR HATCH:

Q What is the date of the interview, down at the bottom?

A 2-6-81.

Q So that is February 6, 1981?

Ex 45
8/20/82

EXHIBIT NO. 45

FEDERAL BUREAU OF [illegible]

Ex 47 VF

Date of transcription 2/9/81

Joseph G. Szapor, a protected government witness, elephonically furnished the following information:

Szapor advised that during the period of 1960 through pril, 1979, while he operated the business known as Joe's ruck Stop, 340 Tonnelle Avenue, Jersey City, New Jersey, he earned that it was "common knowledge" in the Northern New ersey area that Schiavone Construction Company (SCC) made payoffs" in order to obtain preferred contracts through the igging of construction bids. Szapor advised that he had no ersonal dealings with SCC in a business sense, nor did he ave any direct involvement with Ray Donovan or SCC in any cheme whereby "payoffs" were made for "labor peace."

Szapor advised that he knows of Ray Donovan from aving observed Donovan in the presence of Philip "Brother" oscato, along with Moscato's brother, [illegible] Moscato, at the il' Red Buggy, an Italian restaurant located just off Kennedy oulevard in Jersey City, New Jersey. Szapor recalled having bserved Donovan in Moscato's presence on several occasions uring the period of approximately 1976 or 1977. The Moscato rothers did business as Moscato Brothers Construction Company BCC) and to the best of Szapor's recollection maintained an ffice in Arlington, New Jersey.

Interview on 2/6/81 at Newark, New Jersey File # 2-[illegible]-3133 - 154
NK 121A-794 SUB A

by SA John M. Hersh /caw Date dictated 2/9/81

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

MR. OLSON: It says date dictated, 2-9-81, and there is a date at the top, dated--

SENATOR HATCH: But the date of the interview is February 6.

MR. OLSON: That is what it says.

BY SENATOR HATCH:

Q Now, Special Agent Hersh interviewed a protected Government witness who told him that he saw Donovan in the presence of Philip Brother Moscato in 1976 and 1977, and that Moscato did business as Moscato Brothers Construction Company. Are those facts right?

A That is what the interview shows.

Q Okay.

When did you become aware of that information?

A Sometime in March or April of this year.

Q This year, 1982?

A This year, 1982.

Q How was that so?

MR. OLSON: How did he come into that information?

BY SENATOR HATCH:

Q How did you become aware of that information?

A It was brought to my attention as a part of an internal inquiry.

Q When was that information given to the Committee?

A I don't know, Senator.

Q What internal inquiry?

A An FBI internal inquiry.

Q Directed by Director Webster?

A That is correct.

Q But you don't know when that information was given to the Committee?

A No, Senator.

Q I think we got that in June of '82. I believe it was June of '82.

Let me direct your attention to a letter from Director Webster dated June 1st, 1981.

I am informed by counsel it is either April or June of '82 that we received that information.

Now, let me direct your attention to a letter from Director Webster dated June 1st, 1981, in which the Director discussed the Bergen Record article. Let me give you a copy of that letter.

We will list this as Exhibit Number 46.

(Exhibit No. 46 was marked
for identification.)

SENATOR HATCH: Could we have that other exhibit back?

MR. OLSON: We will be furnished with copies of all exhibits marked today?

SENATOR HATCH: Of course.

U.S. Department of Justice

Federal Bureau of Investigation

#46
Adamski
5/20/82

EXHIBIT NO. 46

Office of the Director

Washington, D.C. 20535

June 1, 1981

Honorable Edward M. Kennedy
United States Senate
Washington, D. C.

Dear Senator Kennedy:

The letter from you and Senator Hatch dated March 26, 1981, advised me that since Mr. Donovan's confirmation vote on February 3, 1981, your Committee has received additional information relating to the Schiavone Construction Company (SCC) during the period of Secretary Donovan's association with that firm. You furnished a summary of the information and said that in doing so the Committee is neither asking for a specific additional investigation nor suggesting any particular course of action. You requested to be informed as to the disposition of these matters.

I note that the first item listed in your letter was received by the Committee staff on February 2, 1981 (prior to the confirmation vote on February 3, 1981) and that though the date you received the remainder of the information was not indicated, your letter bringing this additional information to our attention was dated March 26, 1981.

In connection with the 1973 criminal trial involving the illegal sale of topsoil from a public facility to private companies, it is noted that Mr. Donovan testified at this trial. There is no indication given of any criminal misconduct by Mr. Donovan or the SCC.

The information developed by Bruce Locklin, a reporter for the Bergen Record, that Phillip Moscato did work for SCC in the early 1970's and was paid the amount of approximately six thousand dollars, has been acknowledged publicly by SCC Attorney Morris Leven. However, there is no indication of any improprieties in these dealings.

Honorable Edward M. Kennedy

The fact that Mr. Locklin obtained an admission from Mr. Checci that he knew Mr. Armand Faugno, contrary to what Mr. Checci told the FBI, is not a basis for a criminal investigation by the FBI.

The information you have now furnished has been included in our files for such future reference as may become appropriate.

Your letter also requested clarification of the manner in which the Committee was apprised of information provided to the FBI by Patrick Kelly and the testimony by the FBI that the information telephonically provided by Mr. Kelly was nonspecific in nature and did not merit further investigation. You advised that "Subsequent to the Committee vote on January 29 recommending Senate approval of then Secretary nominee Donovan, the Committee was given certain specific details of Mr. Kelly's information; details apparently inadvertently not provided to the Committee on January 27." The persons presenting the FBI testimony have assured me that their testimony neither intentionally nor inadvertently omitted any information responsive to the questions asked. Further, the details to which you refer were in fact provided to your Committee by the FBI prior to the Committee vote. On January 28, 1981, a member of the staff was advised orally of the details; the Committee vote occurred on January 29, 1981; the FBI furnished a confirming letter dated February 2, 1981; and the confirmation vote occurred on February 3, 1981. Therefore, the details were available to the Committee prior to its vote and available to the Senate prior to its vote. Due to the vagueness of Mr. Kelly's information regarding "bid rigging," the FBI did not interview the persons Mr. Kelly alleged were present during the conversation and conducted no other investigation based on the information he provided.

I am providing an identical response to Senator Hatch by separate letter.

Sincerely yours,

William H Webster

William H. Webster
Director

BY SENATOR HATCH:

Q Now, this letter is dated June 1st, 1981, and it is to the Honorable Edward M. Kennedy, from William H. Webster. I believe I was given the same letter, as well.

Now, in this letter the Director discussed the Bergen Record article.

Now, have you seen that letter before?

A Yes, Senator.

Q Okay.

Now, the letter states that Mr. Levin publicly acknowledged that Moscato did work for SCC, is that right?

A Yes, Senator.

Q Did the FBI have a statement by Mr. Levin?

MR. OLSON: Did the FBI have a statement from Mr. Levin saying --

SENATOR HATCH: In connection with the SPIN investigation.

THE WITNESS: It is my recollection that we spoke to Mr. Levin on several occasions.

BY SENATOR HATCH:

Q But did you have any written statements or reports on Mr. Levin?

A I don't think so.

Q O.K. Was Mr. Levin -- we will show you what is marked as Exhibit No. 47 which indicates that you did have a Federal Bureau of Investigation interview on January 16, 1981. Let me give you a copy of that.

(Exhibit No. 47 was marked for identification.)

MR. OLSON: Your previous question related to whether we had a letter?

SENATOR HATCH: No, whether you had a statement from -- well --

MR. OLSON: I think your question --

SENATOR HATCH: The Director's letter states that Mr. Levin publicly acknowledged that Moscato did work for SCC. Then I asked did the FBI have a statement by Mr. Levin and I

EXHIBIT NO. 47

#47

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/22/81

The following is a summary of information furnished Mr. Morris J. Levin, Corporate Secretary and Corporate sel, Schiavone Construction Company (SCC), 1600 Paterson nk Road, Secaucus, New Jersey:

Levin first joined SCC in March, 1967, as an Aid to Management, and became Corporate Secretary in 1972. He an officer of the company in 1979.

The only other Ray employed by the company besides Donovan, of which he is aware is a mechanic named Ray, bore no physical resemblance to Ray Donovan, being shorter balder.

Levin was unable to identify the following names as ving done business with the company:

Ralph Picardo, Al Checci, Sal Briguglio, Philip rother" Moscato, William Musto, "O. K." Trucking, "XYZ Leasing". stated that the name Moscato was familiar to him from having ead of him in the newspapers, and he is aware that Musto is e Mayor of Union City; however, as he recalls the only nicipal job handled by the company was in Jersey City in the riod 1974 to 1975.

Levin was unable to identify a photograph of Ralph cardo displayed to him in a set of six photographs, and was able to identify a photograph of Sal Briguglio displayed in same manner.

Levin noted that his company is sometimes confused a scrap dealer company by the name of Schiavone-Bonomo, ocated in Jersey City, New Jersey, which is said to be one of biggest scrap dealers on the east coast. He said that confusion has occurred in the form of his company having ceived mail intended for that company, perhaps two or three a year, and in the form of legal process having been rved on his company once or twice in thepast, which actually meant for the other company. He added that he is aware the Internal Revenue Service (IRS) has also made inquiry his company concerning certain checks, when they really

on 1/16/81 at Secaucus, New Jersey File # NK 161-3133-98

Edward H. Muchmore
SAs George H. Sturm, Jr., GHS/em Date dictated 1/20/81

101394

conclusions of the FBI. It is the property of the FBI and is loaned to your agency; are not to be distributed outside your agency.

Exhibit 54

NK 161-1111

were concerned with the other company.

Levin has no personal knowledge concerning allegations that Raymond Donovan made payments to anyone in return for "labor peace".

am showing you a statement that they --

THE WITNESS: Senator, this is not a statement. This is an interview report form, an FD-302.

BY SENATOR HATCH:

Q O.K. So the FBI did have an interview report form regarding Mr. Levin as of -- from an interview from 1-16-81. The date of transcription is 1-22-81.

Is that right?

A That is correct, Senator.

Q Was this stuff teletyped -- the information contained in this report, was it teletyped down to the head office here?

A The information in summarized form was teletyped to FBI headquarters.

Q Now, one of the questions we have to ask, in light of the testimony you have given, is in the middle it says Levin was unable to identify the following names as doing business with the company: Ralph Picardo, Al Cecchi, Sal Bruguglio, Philip Brother Moscato.

Why would you be asking about Philip Brother Moscato if you thought there was some other Moscato or if you didn't think that Philip Brother Moscato was important in this investigation?

MR. OLSON: Why would this particular agent, the agent that conducted that interview, have asked that question?

SENATOR HATCH: Yes.

THE WITNESS: The only response I can have to that is that the agents who conducted this interview were agents of the Newark office. Agents of the Newark office are familiar with Philip Brother Moscato who happens to be a resident of the State of New Jersey and involved in organized crime there allegedly and they were throwing that out as a possibility.

BY SENATOR HATCH:

Q Was this report brought to the Director's attention?

MR. OLSON: This document?

SENATOR HATCH: Yes, Document No. 47.

THE WITNESS: I have no way of knowing that, Senator.

BY SENATOR HATCH:

Q The Director also stated in his letter, Exhibit No. 46, that was not significant that Mr. Cecchi falsely denied knowing Mr. Faugno.

Was the Director appraised of the April 4 interview when he wrote that letter to the Committee, do you know?

MR. OLSON: Which paragraph of the letter, Exhibit 46, are you referring to?

SENATOR HATCH: The above paragraph on page 2, the fact that Mr. Laughlin obtained an admission from Mr. Cecchi that he knew Mr. Armand Fugno contrary to what Mr. Cecchi told the FBI, is not a basis for a criminal investigation by the

FBI.

Now I am asking, was the Director appraised of the Szapor interview -- that is S-z-a-p-o-r -- interview when he wrote this letter to the Committee?

MR. OLSON: Was Exhibit -- I do not know what you are referring to.

SENATOR HATCH: That is Exhibit 45.

MR. OLSON: We handed that back to you.

SENATOR HATCH: That is this one right here.

MR. OLSON: Your question is whether Exhibit 45 was in front of -- was known to Director Webster when he wrote Exhibit 46?

SENATOR HATCH: Right.

MR. OLSON: Is that the question?

SENATOR HATCH: Right. Or was he apprised of it by any agent.

THE WITNESS: I don't think he was apprised of it by any agent. I don't specifically know. I don't think that information came to light until March or April of this year.

BY SENATOR HATCH:

Q Isn't the reason that the agent, in Exhibit 47, asked Levin about Philip Brother Moscato is because of Picardo's allegation that Philip Brother Moscato had done business with Schiavone Construction Company?

A I don't think Picardo made the allegation that

Schiavone did business with Philip Brother Moscato. Picardo alleged that they did business with Moscato contractors and I think there is a different spelling of their names.

Q O.K. What is the different spelling, if you know?

A I don't know. It is just my recollection. The one that is in our 1-23 is what we checked.

Q Would you provide that for us?

Now Mullen testified that you helped him with his prepared statement. Did you write Mr. Mullen's prepared statement before this Committee?

A No, I did not.

Q Did you discuss the draft with Mr. Mullen?

A I read and discussed the draft.

Q When did you discuss it and who was present and what was said, if you recall, and I might add, were there any revisions as a result of your conversations?

A To the best of my recollection we probably read and discussed the draft in the evening hours of January 26, 1981. Present were probably myself, Mr. Mullen, Mr. Schulte, Mr. Domzalski, Mr. Drake, Mr. Bruemmer.

Q Were there any revisions as a result of the conversation, if you know?

A There was an ongoing revision process. I don't know if any of those were based on anything that I said.

Q Was there any discussion about whether or not to include the Masselli reference, Masselli tape reference?

MR. OLSON: Haven't we covered this before?

SENATOR HATCH: No, not specifically.

THE WITNESS: I don't recall a discussion at that time.

BY SENATOR HATCH:

Q Was Hersh present at that time, Special Agent Hersh?

A He was not present at the discussion, no.

Q Was he on the phone?

A He was not on the phone. He was not consulted.

Q O.K. In a letter dated April 15, 1982, the Director furnished the Committee a number of documents relating to Mr. Donovan which were contained in the files of the FBI but which had not previously been furnished to the Committee. Several of these documents were in the FBI files at the time of the confirmation process but were unknown to the Committee.

What prompted this disclosure was the discovery by the Special Prosecutor in March 1982 of two documents in the files of the Newark office that had not been furnished to either the Committee or the Special Prosecutor.

Now let me discuss those first. The first document was a report by an informant telephonically furnished to Special Agent John Hersh on January 27, 1981, the day of the second confirmation hearing. This report dealt with detailed allegations by the informant that Mr. Donovan had socialized on a regular basis with Salvatore Briguglio. Briguglio had, through contacts with municipal and State agencies, been able to furnish to Mr. Donovan information on proposed lowest bids which enabled the Schiavone Construction Company to underbid the competition.

Briguglio's brother had assisted in picking up payoffs from Mr. Donovan. As a result of Briguglio's association with Mr. Donovan, the Schiavone Company had furnished $50,000 worth of building material to renovate the home of Teamster official Tony Provenzano.

Payoffs to Briguglio were accomplished by overbillings in the purchase of cranes by the Schiavone Construction Company.

A letterhead memorandum dated 5-9-82 furnished to us by the Director contains a summary of an investigation by the FBI's Office of Professional Responsibility, (OPR) concerning this matter. The report states that Special Agent Hersh was in Washington from January 26, '81 to January 29, '81 to provide security for a witness in the Donovan confirmation process. He said that he spoke on the telephone with an informant on January 27, 1981. He said, according to the OPR report, that on the same day he typed the information obtained from the informant on a piece of plain bond paper and gave the paper to you or read it to you but did not leave a copy of it with you.

Now do you consider that kind of information, if true, significant and pertinent to the consideration of Mr. Donovan as nominee for Secretary of Labor?

MR. OLSON: I object to the question, Senator. You have read a long document which is not before the witness. It contains assertions. I am not sure whether you are quoting from some document or summarizing documents or allegations. It is impossible for us to tell what the question is.

BY SENATOR HATCH:

Q Let's list the letter of submission, dated April 15, 1982, and the document from which I quoted, as Exhibit No. 48.

(Exhibit No. 48 was marked for identification.)

BY SENATOR HATCH:

Q I think you will find that the characterization of the information is true. You might want to read the pages, 1 and 2 of the Hersh memo of February 2, 1981.

MR. OLSON: There are two.

SENATOR HATCH: Read them both if you like. Basically I think you will find that the quotes I have made are pretty accurate.

MR. OLSON: I am not suggesting that they were not accurate.

SENATOR HATCH: You were just suggesting you need time to look at that.

MR. OLSON: The document would speak for itself.

EXHIBIT NO. 48

#48
#II
Donovan
8/20/82

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

April 15, 1932

Honorable Orrin G. Hatch
Chairman, Committee on Labor
  and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

During the investigation concerning Secretary Raymond Donovan by Special Prosecutor Leon Silverman, certain additional information was discovered which was not previously provided to your Committee. Because of the discovery of this information, and based on information developed by the Special Prosecutor, I ordered the extraordinary step of searching all field offices, and, as a result, five other matters which involve Mr. Donovan and/or Schiavone Construction Company were located.

With the concurrence of the Special Prosecutor, the aforementioned documents are being provided for your review. Also, I am enclosing two documents which explain how the enclosed information was located.

If I can be of any further assistance to you please do not hesitate to contact me.

Sincerely yours,

William H. Webster
Director

Enclosures (15)

① - Honorable Edward M. Kennedy
Committee on Labor and Human
Resources

UNITED STATES GOVERNMENT

memorandum

DATE: 2/2/81

REPLY TO ATTN OF: SA JOHN NARSHAL HERSH

SUBJECT: RAYMOND J. DONOVAN
SPIN

TO: SAC, NEWARK (161A-3133) (C-9)

On 1/27/81, source telephonically furnished the following information:

Raymond Donovan socialized on a regular basis with Salvatore Briguglio and Briguglio's associates Paul Ciampi, who also was a Business Agent at IBT Local 560, and Fred Furino, at various nightclubs in the Union City, NJ, area. Several of these nightclubs included the Chateau Renaissance and the Ichi Ban located on 5th Street in Union City, NJ. An individual by the name of Bobby Semotina (PH) still operates the Ichi Ban and knows of Donovan's association with Briguglio. Paul Ciampi represented IBT Local 560 members who were employed at various concrete and construction businesses.

Through his contacts with municipal and state agencies in the Northern New Jersey area, Sal Briguglio was able to determine the lowest bids which had been received from other construction companies on various jobs. Briguglio would then furnish the lowest bid information to Donovan, who would in turn utilize this information to underbid the competition and obtain the contracts. Briguglio received "payoffs" from Donovan for his assistance in the retention of the contracts.

Gabe Briguglio, a brother of Sal Briguglio, assisted his brother in picking up "payoffs" from Donovan.

This source further advised that during the mid 1960s Schiavone Construction Co. (SCC), as the result of Donovan's association with Briguglio, furnished approximately $50,000 worth of building materials utilized in the renovation of Anthony Provenzano's residence located in Clifton, NJ. These materials were considered a "payoff" since no invoices or bills were sent to Provenzano by SCC. Flatbed trucks owned by SCC delivered materials, which included plywood, shingles, plumbing supplies, kitchen cabinets, concrete and sod.

Source advised that during the early to mid 1960s SCC purchased several large cranes. A procedure of overbilling SCC for the purchase price of these cranes enabled SCC to generate certain funds which were utilized for payoffs to Briguglio.

JMH/ms
(2)

Buy U.S. Savings Bonds Regularly on the Payroll

The above source has furnished reliable information to the FBI over a period of six years, all of which has always been found to be highly credible. Source learned the above details through personal observation and through conversations with individuals mentioned above.

ALTHOUGH THE ABOVE INFORMATION IS NOT WHOLLY SINGULAR IN NATURE, DISSEMINATION SHOULD BE LIMITED, AND THE DIVISION SHOULD NOT IDENTIFIED AS THE SOURCE OF THE INFORMATION.

ADDENDUM

The above information was furnished to Unit Chief Anthony Adamski of the SPIN Unit on 1/27/81. //

UNITED STATES GOVERNMENT
memorandum

DATE: 2/2/81

REPLY TO ATTN OF: SA JOHN MARSHAL HERSH

SUBJECT: RAYMOND J. DONOVAN
SPIN

TO: SAC, NEWARK (161A-3133) (C-9)

On 2/1/81, source telephonically furnished the following information:

Raymond J. Donovan and Salvatore Briguglio, during the late 1960s and early 1970s, took various pleasure trips together.

(details deleted)

Donovan was also present at Sal Briguglio's residence in Washington Township, NJ, on numerous occasions.

Source advised Briguglio was present at Sid Allen's Restaurant, Fort Lee, NJ, in the company of Ray Donovan on 4/18/69.

The following individuals were closely associated with Sal Briguglio and should be in a position to corroborate the close relationship which existed between Briguglio and Donovan:

1) (name and identifying information deleted)

2) (name and identifying information deleted)

3) (name and identifying information deleted)

4) (name and identifying information deleted)

5) (name and identifying information deleted)

JMH/ms
(2)

Buy U.S. Savings Bonds Regularly on the Payroll

[redacted] NK 161A-3133

(identifying information deleted)

[redacted] the Federal prison in Lewisburg, Pa., during 4/81.

ALTHOUGH THE ABOVE INFORMATION IS NOT WHOLLY SINGULAR IN NATURE, DISSEMINATION SHOULD BE LIMITED, AND THE . - DIVISION SHOULD NOT BE IDENTIFIED AS THE SOURCE OF THE INFORMATION.

SENATOR HATCH: Well, the information in these documents -- let me ask you this.

BY SENATOR HATCH:

Q Consider those -- that information pertinent, if true, pertinent -- significant and pertinent to the consideration of Mr. Donovan as a nominee for the Secretary of Labor position.

MR. OLSON: I am going to object to the question on the grounds it is compound. You are referring apparently to four pages of material which the witness has yet to read. After he has read it, it would still be very compound.

BY SENATOR HATCH:

Q Isn't it a fact that Special Agent John Hersh said that on January 27, 1981, he gave you additional information about Donovan either in writing or orally, but he did give it to you?

MR. OLSON: Now, I would like to have the witness read that document.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Are you aware of that, first?

MR. OLSON: Well, you were reading from a document. I would like --

SENATOR HATCH: With or without the document, I would like to ask him if he is aware.

MR. OLSON: You are reading from a document that -- something that refers to something that happened 18 months ago. I think in fairness to the witness he is entitled to read the document that you are quoting from.

SENATOR HATCH: Okay.

(Pause)

SENATOR HATCH: Have you finished reading it?

MR. OLSON: Mr. Chairman, were the two two-page documents, dated February 2, 1981, attached to the letter to you from Judge Webster dated April --

SENATOR HATCH: I understand they were delivered to us with the letter. That is correct.

BY SENATOR HATCH:

Q Now, isn't it a fact that Special Agent Hersh, as is noted at the end of the first SPIN memorandum in the addendum, had given you the additional information about Donovan either in writing or orally?

A It says that he furnished the information to me.

Q Now, let me direct your attention to Special Agent Hersh's SPIN memorandum.

Doesn't Special Agent Hersh indicate that this is the information that he gave to you?

MR. OLSON: May I -- Mr. Chairman, I would like to draw your attention to the language on page 2 of the -- of each of the two attachments which refer to the information being sensitive and that the division with which it was associated should not be identified as the source of the information. I am not sure whether there hasn't been sufficient examination of it that that is no longer valid. I am simply not aware of how --

SENATOR HATCH: This is an exhibit in the Special Prosecutor's report. So it is known to the public.

MR. OLSON: It was released to the public?

SENATOR HATCH: I understand the Special Prosecutor's report is public. The media has it. We have got the same copy the press got.

THE WITNESS: It is my understanding, Senator, that there are two copies of the Special Prosecutor's report, one that was made public and one with the exhibits that --

SENATOR HATCH: We did not get the filed copy which is a thousand pages. We did get the 700-page copy with the third volume of exhibits, and these are -- that is where these exhibits came from.

MR. OLSON: I don't know and can't dispute that. I am concerned that if there is some chance that this information is not already public, that care be taken with it because of the statement about its sensitivity there.

SENATOR HATCH: I agree. I don't have any problem with that except I believe it is public.

BY SENATOR HATCH:

Q But all I am asking you is Special Agent Hersh indicated that he had given you all the information in these two SPIN memoranda. Is that correct?

A That is what he indicated.

Q Okay.

Now, did he?

A Not to my recollection.

Q Do you recall speaking to Mr. Hersh?

A I recall speaking to Mr. Hersh on several occasions.

Q About these items in those memoranda?

A Not with specificity as to names.

Q But you don't remember Mr. Hersh giving you this kind of information?

A I remember receiving the information concerning the --

Q As of January 27, '81, is what I am saying.

A The Provenzano information which is, I believe, the second to last paragraph of the Hersh memorandum, dated 2-2-81.

Q But that is all?

A That is my only recollection of the information I received.

Q Was Special Agent Hersh in Washington, as the OPR indicates, from January 26, 1981, to January 29, '81, to provide security for a witness?

A I am not sure of the dates but I am sure they are -- I would agree.

Q Do you know who the witness was?

A Ralph Picardo.

Q Did you have conversations with Special Agent Hersh while he was in Washington at that time?

MR. OLSON: Would he have or did he have?

SENATOR HATCH: Did he have.

THE WITNESS: I had several.

BY SENATOR HATCH:

Q Would you describe, to the best you can, those conversations that you had with him during that period of time? When did they occur, who was present, what was said?

A Most of the conversations pertained to Ralph Picardo and Ralph Picardo's background and what Ralph Picardo had provided to SA Hersh. Additionally, pertained to the interview of Picardo which Hersh was present as well as members of the Committee staff. It pertained to Picardo's health and welfare from the standpoint of his physical, medical problems and as far as his security. As to his housing, his family -- there was just a lot of conversation, Senator.

Q Did you talk to Special Agent Hersh on the day of the hearing, January 27th hearing?

A I may have. I probably did.

Q But you don't really -- particularly recall anything that was said?

A I spent most of the day over here, as you will recall, Senator.

Q Okay.

In the OPR summary of May 14, 1982, it indicates that your recollection differs from that of Special Agent Hersh.

Let me give you a copy which we will mark as Exhibit 49.

(Exhibit No. 49 was marked for identification.)

SENATOR HATCH: It says that you recall that Hersh --

MR. OLSON: What page?

SENATOR HATCH: Page 2, second paragraph.

BY SENATOR HATCH:

Q Basically states that you recall that Hersh, on an unrecalled date, advised you by telephone of informant information concerning the provision of construction materials to Provenzano, but that you were not advised of any other information the informant had furnished.

It also states that you recall that a Senate committee staff aide also informed you of the allegation involving Provenzano.

Now, was this a conversation in person as Special

#49

EXHIBIT NO. 49

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

May 14, 1982

Honorable Orrin G. Hatch
Chairman, Committee on Labor
  and Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter of April 23, 1982, requesting additional information regarding the FBI's background investigation of Secretary Raymond J. Donovan.

Your letter requests four items of information. The first relates to the FBI's internal handling of certain memoranda and information that were not previously furnished to your Committee. The report you requested is contained in the attached letterhead memorandum. Additional information will be furnished upon completion of inquiries presently being conducted by the FBI's Office of Professional Responsibility.

Item two requests a "copy of the February [3], 1981, teletype and the memorandum of an apparent interview of Joan Torino." As you know, those documents may be relevant to the investigation of Secretary Donovan presently being conducted by Special Prosecutor Leon Silverman under the Ethics in Government Act. For that reason, we believe that it would be inappropriate for us to release these materials to your Committee without first obtaining Mr. Silverman's written authorization. A copy of the materials was forwarded today to the Special Prosecutor for review. If he authorizes the release of these documents, they will be promptly forwarded to your Committee.

The third item asks us to provide copies of interview memoranda of all informants referred to in the January 23, 1981, report furnished to the Committee. It has long been the policy of the FBI and the Department of Justice not to disclose information that would compromise the identity and jeopardize the safety of confidential informants. I have been advised that this information is of such a nature and therefore regret that we cannot comply with this request.

Honorable Orrin G. Hatch

Finally, item four asks for "details concerning the disposition of the matter referred to in the briefing we received from your representatives on December 11, 1981." This apparently refers to a question of whether Secretary Donovan was seen with a person he had denied knowing. I have been advised by Assistant Director Charles P. Monroe, who attended the briefing, that the discussion was of a very general nature because the Donovan matter was then under investigation by the Justice Department. Neither he nor Deputy Associate Attorney General Jeffrey Harris, who was also present, are able to identify the type of information you have requested. Perhaps someone on your staff can help us clarify the matter.

If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

William H. Webster
Director

Enclosure
1 - Honorable Edward M. Kennedy

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

May 14, 1982

RAYMOND J. DONOVAN

In a letter to the Director dated April 23, 1982, from Senators Orrin G. Hatch and Edward M. Kennedy, Chairman and Ranking Minority Member respectively, Senate Committee on Labor and Human Resources, four items of information were requested in furtherance of the Committee's inquiry into allegations against Secretary Raymond J. Donovan. The first item requests "[a] detailed report concerning the reasons for failing to previously furnish to the Committee the two Newark Office memoranda dated February 2, 1981; the New York Office informant contact on January 11, 1981; and the information furnished to the Chicago Division by the Bureau [on] February 24, 1981." The Committee added that the report should include the results of the FBI's Office of Professional Responsibility (OPR) inquiry of March 17-18, 1982, as well as any subsequent inquiries.

The FBI's delay in furnishing the Committee with the two Newark Office memoranda dated February 2, 1981, was addressed by the OPR inquiry of March 17-18, 1982. A summary of that inquiry is provided within this letterhead memorandum. OPR is currently conducting separate inquiries into the handling of the New York Office informant contact on January 11, 1981, and the information furnished to the Chicago Division by FBI Headquarters (FBIHQ) on February 24, 1981. Summaries of these inquiries will be provided to the Committee upon their completion.

ADAMSKI

The Newark Special Agent who prepared the two Newark Office memoranda was at FBIHQ from January 26-29, 1981, to provide security for a witness testifying in the Donovan confirmation hearings. This Agent stated he spoke on the telephone with an informant on January 27, 1981. That same day, he typed the information resulting from that conversation on a piece of plain bond paper and recalls that he either gave the paper to the Chief of the Special Inquiry Unit (Unit Chief) to read or read it to him. He remembers that he did not leave a copy of these typewritten notes with the Unit Chief. According to those notes, the informant alleged that Secretary Donovan socialized regularly with Salvatore Briguglio and his associates at various nightclubs in the Union City, New Jersey, area; that Donovan paid Briguglio for furnishing bid information of competitors in construction contracts; and that Schiavone Construction Company furnished Anthony Provenzano with building materials for the renovation of his residence without charge.

ADAMSKI?

The Unit Chief's recollection differs in part from that of the Agent. He remembers that the Agent on an unrecalled date advised him by telephone of informant information concerning the provision of construction materials to Provenzano, but maintains that he was not advised of any other information the informant had furnished. He recalls that a staff aide for the Senate Committee also informed him of the allegation involving Provenzano.

The Newark Agent said that, after his return to the Newark Office, he had another telephone conversation with the same informant on February 1, 1981. He remembers recording this and the January 27, 1981, contact in separate memoranda on February 2, 1981, and furnishing both memoranda the same day to the Newark Supervisor in charge of the Donovan background investigation. The Newark Supervisor confirmed that the two memoranda of February 2, 1981, were delivered to him that day.

The Supervisor stated that he noted that the memorandum describing the Agent's conversation of January 27, 1981, contained an addendum advising that the information had been furnished to the Unit Chief on the same day it was received. He said that he did not confirm the matter in writing with FBIHQ because he believed that FBIHQ had already received this information and that the allegations were similar to ones that had already been investigated and determined to be unfounded. A review of the FBIHQ Donovan background investigation file failed to disclose any written communication from Newark to FBIHQ concerning the information provided by the informant on January 27, 1981.

ADAMSKI

The Assistant Director of the Criminal Investigative Division (CID) recalls that, at a meeting held on January 28 or 29, 1981, attended by him, the Executive Assistant Director (EAD) for Investigations, the Chief of the Civil Rights and Special Inquiry Section (Section Chief), the Assistant Section Chief, and the Unit Chief, the informant's allegation concerning Provenzano was discussed. Since the Donovan hearings were over and the Committee staff was already aware of the information, it was determined that it was not necessary to formally advise the Committee of the allegation.

MONROE

MULLEN

SCHULTE

DOMZURSKY

ADAMSKI

With regard to the informant information received on February 1, 1981, the memorandum of the Newark Agent reported that Secretary Donovan and Briguglio took various pleasure trips together during the late 1960's and the early 1970's; that Briguglio's girlfriend had met Donovan while in the company of Briguglio; and that Briguglio was in the company of Donovan on numerous other occasions. That memorandum also listed the names of five other individuals who the informant advised could corroborate a relationship between Donovan and Briguglio. The SCHULTE Newark Supervisor stated that he telephoned the Section Chief on L. February 2, 1981, and advised him of the contents of the memorandum. The Supervisor recalls advising the Section Chief that the Agent had been furnished with five names, but does not recall providing him the names received from the informant. The Section Chief recalls discussing the information concerning Briguglio's girlfriend, Joan Torino, with the Supervisor on the telephone and instructing him to interview her. He recalls discussing with the Supervisor individuals who the informant said might know something about a Briguglio-Donovan relationship, but has no recollection of any specific information being furnished to him concerning the names or descriptions of individuals who could provide that information.

The Supervisor states that he provided FBIHQ with the results of the Torino interview by teletype on February 3, 1981, and referenced his telephone calls to FBIHQ of February 2, 1981. A review of the FBIHQ Donovan background investigation file disclosed a Newark teletype dated February 3, 1981, which reports the informant's information regarding Briguglio and Torino and the results of her interview, but does not mention the five individuals referred to by the informant. The Supervisor said that he did not conduct a follow-up investigation or include those names in the teletype because they were just another example of the numerous name references that had been checked out and had failed to establish any relationship between Donovan and organized crime figures.

L. SCHULTE

The Section Chief said that he did not request the Newark Office to conduct additional investigation about these individuals because of the vagueness of the information and the lack of any specific details. He believed this decision was in accord with instructions he said were previously received from ALEXANDER MULLEN ? the EAD for Investigations and the Assistant Director of CID not to pursue vague, non-specific allegations and to conclude the background investigation. He also said he saw no reason to report the informant's information concerning Torino to the Senate Committee or discuss it with his superiors because he believed the subsequent interview indicated that the information was unsubstantiated.

As the Committee was previously advised, the two Newark memoranda were discovered by an FBI Special Agent detailed to the Special Prosecutor while reviewing an informant file in the Newark Office. This information was communicated to the Director by the Special Prosecutor in a personal meeting. Promptly thereafter, a thorough search of all field office indices was ordered by the Director and, with the approval of the Special Prosecutor, the results of that search, including the information discussed herein, were furnished to the Committee. While it is unfortunate that this information was not provided earlier, we have found nothing to indicate that it was deliberately concealed from the Committee.

Agent Hersh apparently claims or was that a telephone call?

A Are you saying when did --

Q I am saying how did he do that? Did you discuss this matter with him in person or through a telephone call?

A I don't recall exactly. I favor that it was a telephone call.

What was the date of this, do you remember, approximately?

A I don't recall specifically.

Q "Was it before or after the January 27th hearing?

A It would either have had to have been January 27 or January 28th, to the best of my recollection.

Q Okay.

Had Special Agent Hersh ever called you before that, or since?

MR. OLSON: On the telephone?

BY SENATOR HATCH:

Q On the telephone, or communicated with you in any way before that, or since?

A We communicated several times prior to January 27 concerning the arrangements for Ralph Picardo. I believe we communicated on at least one occasion after the hearing to provide characterizations for Picardo's use in another trial.

Q How did the procedure work? Did an agent in Newark--does he normally call you directly?

MR. OLSON: Is there a normal procedure?

THE WITNESS: It would work either way.

BY SENATOR HATCH:

Q Did any other agent call you directly during this investigation?

A I would presume so, Senator.

Q I am talking agents as opposed to a supervisor.

A I assume so. I have no recollection.

Q You don't know who that would be?

A I received calls on a daily basis, from just agents, and also from supervisors.

Q As I understand it then, the only allegation that you recall Special Agent Hersh telling you about was the Provenzano allegation that Donovan supplied construction material--not Donovan, but Schiavone Construction Company supplied construction materials to Provenzano?

MR. OLSON: Other than all the conversations they had about Picardo?

SENATOR HATCH: Yes.

THE WITNESS: I am sorry. I lost it.

SENATOR HATCH: I am talking with reference to these two memoranda that we have been talking about, and really only the first one.

BY SENATOR HATCH:

Q The only information you recall hearing from Special Agent Hersh regarding the first memoranda of the two memoranda in Exhibit Number 48 was really the allegations relating to Anthony Provenzano, is that right?

A That is correct, Senator.

Q You do not recall Special Agent Hersh advising you that Donovan regularly socialized with Salvatore Briguglio?

A I think that was previously brought up by Picardo.

Q I see.

In other words--we look upon this as significant. You have an independent informant really corroborating what Picardo said, if this is true. Correct?

MR. OLSON: What is your question?

SENATOR HATCH: In the memorandum, the first memorandum, the significance of it is that you have an independent source or informant other than Picardo corroborating what Picardo had to say about Salvatore Briguglio, among other things.

MR. OLSON: Are you referring to page 2 of Exhibit 48--

SENATOR HATCH: Or is this an informant other than Picardo?

I am assuming this is an informant other than Picardo in this first memorandum.

THE WITNESS: I am assuming that, also, Senator. I don't know.

BY SENATOR HATCH:

Q So, the significance is you have a corroborating informant other than Picardo on the Salvatore Briguglio matter. Right? Isn't that significant?

A We had several informants who alleged that Mr. Donovan associated with organized crime figures, which is what Mr. Briguglio is, or was.

Q You do not recall Special Agent Hersh advising you that for payoffs Briguglio told Donovan what was the lowest bid of state and municipal contracts so that Donovan could underbid the competition and obtain the contracts. Is that right?

A My recollection of that is also from the interview of Mr. Picardo.

Q Do you deny that Special Agent Hersh ever told you about this or showed you a memorandum containing this information?

A I don't recall that Special Agent Hersh showed me a memorandum or told me about that.

Q Do you recall whether Special Agent Hersh ever told you about Gabe Briguglio, the brother of Salvatore Briguglio, and whether Gabe helped pick up some of Donovan's payoffs, alleged payoffs?

A I don't recall SA Hersh telling me that.

Q Do you recall Hersh telling you that an informant said that, other than Picardo?

A I don't recall Hersh telling me that.

Q Do you recall that Special Agent Hersh ever told you that during the early to mid-1960s Schiavone Construction Company was overbilled for several large cranes, enabling Schiavone Construction Company to generate monies for payoffs to Briguglio?

MR. OLSON: Is that something that is in this document?

SENATOR HATCH: I think it is, right at the last paragraph, first page of the first memorandum, where it says: "Source advised that during the early to mid-1960s Schiavone

Construction Company purchased several large cranes. A procedure of overbilling SCC for the purchase price of these cranes enabled SCC to generate certain funds which were utilized for payoffs to Briguglio."

BY SENATOR HATCH:

Q You don't recall Hersh telling you about that or showing you a memorandum regarding that?

A No, I don't recall Hersh telling me that.

Q Do you recall the matter being discussed at a meeting on January 28th or January 29th attended by you, Mr. Mullen, Mr. Monroe, Mr. Domzalski and Mr. Schulte, that is, these memoranda?

MR. OLSON: Are you continuing to refer to the same documents?

SENATOR HATCH: Materials contained in the first memorandum, listed as part of Exhibit 48.

THE WITNESS: Do I recall that being discussed on the 27th--

BY SENATOR HATCH:

Q Yes, at a meeting among Mullen, Monroe, Domzalski, and Schulte on the 28th or 29th?

A Not in the form that they're here.

Q In what form then?

A I believe we talked about the Tony Provenzano information.

Q Who was present and what was said, if you can tell us?

A I believe that was Mullen, Monroe, Schulte, Domzalski, and myself. Maybe Russ Bruemmer.

Q Who advised the group of the information that was discussed? Was it you?

A I may have. I am not sure.

Q Do you know if anybody else--who else would have been in a position to do so in that group?

A Domzalski might have been.

Q How would Domzalski have been in that position?

A He had met with members of your Committee earlier on the 26th, when apparently that information was developed.

Q Does that include the information involving the Briguglio payoffs and the cranes that we have just discussed and the social connections?

A What I am discussing is the Tony Provenzano information.

Q You're just discussing the Tony Provenzano?

A That's correct.

Q You thought that was the only thing that was really discussed at that meeting?

A That's correct.

Q Now, the FBI letterhead memorandum dated May 14th, 1982--

MR. OLSON: Exhibit 49?

BY SENATOR HATCH:

Q Do you know which committee staff aide you did talk to on this same matter, the Provenzano matter, and anything else that was in that memorandum?

MR. OLSON: What memorandum?

SENATOR HATCH: Memorandum Exhibit 48, information as contained in there.

THE WITNESS: The staff aide that I talked to concerning the Provenzano information was Larry Horowitz.

SENATOR HATCH: Right. Larry Horowitz.

BY SENATOR HATCH:

Q Was that the only staff aide, and when did that conversation take place?

A It wasn't the only staff aide that I have ever talked to but--

Q Well, on this issue.

A On this issue, I believe it was on January 27th or January 28th.

Q Okay. Was that the only staff aide you talked to, Larry Horowitz, on this issue?

MR. OLSON: With respect to this issue on that date.

SENATOR HATCH: Right.

THE WITNESS: Yes.

BY SENATOR HATCH:

Q Okay. Is it your testimony that you do not recall seeing Special Agent Hersh's typewritten notes on what the informant told Special Agent Hersh on January 27th, 1981?

A That's correct.

Q At any time? Up until today?

A I have seen it as of approximately March or April of this year.

Q Okay. Now, the FBI letterhead memorandum dated May 14th, 1982 refers to Special Agent Hersh's notes typed on a plain piece of bond paper. Now, would you be willing to provide this Committee with a copy of those notes?

MR. OLSON: We will consider and respond as we deem appropriate when we receive a written communication.

SENATOR HATCH: We will put that in writing.

You don't have any objection to that?

MR. OLSON: I don't know whether I do. We are going to be responding to each of these requests when we receive them in writing and as we deem appropriate.

SENATOR HATCH: Do you think there may be additional information on those notes that is not contained in that memorandum?

MR. OLSON: I have no idea.

SENATOR HATCH: Does the witness know?

BY SENATOR HATCH:

Q Have you read Special Agent Hersh's notes?

MR. OLSON: If they exist.

We are referring to--

SENATOR HATCH: Let the witness answer.

BY SENATOR HATCH:

Q Let me ask you this. Did you read those notes? As I recall, you said you read them at around April or May of 1982.

MR. OLSON: Are you referring to--

SENATOR HATCH: March to April.

MR. OLSON: --Exhibit 49?

SENATOR HATCH: No. We are referring to the notes that were prepared pursuant to Exhibit 48.

BY SENATOR HATCH:

Q Had you read those notes?

A Senator, what I believe I read was this document right here--

Q You have not read--

A --49--

MR. OLSON: 48.

BY SENATOR HATCH:

Q Referring to Exhibit 48. And you have not personally read the notes of Special Agent Hersh?

A Not to my knowledge.

Q Okay. Do you know whether or not they contain any information that is not in these memoranda in Exhibit 48?

A I believe that this is what I have read. I don't know what's in his notes.

Q Let me ask you. It seems like either I'm confused or you're confused, because a moment ago you indicated that you had read notes that were typed on a plain piece of bond paper. These were Special Agent Hersh's notes. Now you are saying you did not read those but only read this?

MR. OLSON: The record will reflect what he said. I don't recall him saying--

SENATOR HATCH: I want to clarify it and see if I am wrong. If I mischaracterize it, you--

THE WITNESS: I don't think I read his notes on a plain piece of bond paper. What I considered to be his notes is Exhibit 48.

SENATOR HATCH: I see. Okay.

We would still have the same request for the notes. We will put that in writing, pursuant to our understanding here.

BY SENATOR HATCH:

Q Have you submitted in any matter a sworn statement as to what Special Agent Hersh told you on January 27, 1981?

A I have.

Q Would you also make that available to the Committee?

MR. OLSON: We will deal with that in the same way.

BY SENATOR HATCH:

Q Were you ever asked to take a polygraph examination at any time regarding the Donovan matter or any matter related thereto?

A I have.

Q Did you agree?

A I did.

Q Do you know when it was taken? Do you know when the polygraph was taken?

A Sometime in March, I believe, of this year.

Q Was deception indicated in any aspect of that examination?

A Not on my examination.

Q Do you know of anybody else who took one where deception was indicated?

A I am aware now of the polygraph examination of SA Hersh, and there was some deception indicated, not with regard to--well, as to whether or not he provided some information to Committee staff.

Q I see. Now, we would like to have those tests and the results available to the Committee, also. We will make a formal request for that.

MR. OLSON: Yes, and I am not sure we will respond affirmatively. We will respond when we receive the request.

SENATOR HATCH: I understand.

BY SENATOR HATCH:

Q Do you know of anybody who took a polygraph test?

MR. OLSON: In connection with this Donovan--

SENATOR HATCH: Yes. We are limiting it to the Donovan inquiry and all aspects thereof.

THE WITNESS: Outside of the special prosecutor's aspect? Agent personnel or--

BY SENATOR HATCH:

Q No, anything pertaining to the Donovan matter, if you know.

A I understand that in the special prosecutor's investigation several people took polygraphs. I am not aware of who they are.

Q I see. Do you know of any agents who took polygraphs outside of yourself and Agent Hersh?

A No.

Q Do you know of any instances of deception indicated other than Agent Hersh and, I take it, the--if you've read the special prosecutor's report, Mr. Furino.

A I have not read the special prosecutor's report, and I don't know of anybody--

Q Any other deception--

A --any other deception.

Q Okay.

(Off the record)

BY SENATOR HATCH:

Q When did you first become aware of the information furnished by the same informant to Special Agent Hersh on February 1st, 1981? I believe that would be the second memorandum in Exhibit No. 48.

MR. OLSON: Are you referring to a particular paragraph, any aspect of--

SENATOR HATCH: The whole memorandum.

MR. OLSON: And your question? I can't recall your question.

BY SENATOR HATCH:

Q I just asked, when did you first become aware of this information, which was furnished by the same informant, Special Agent Hersh, or at least we presume the same informant, on February 1st, 1981?

MR. OLSON: I am not sure that we know that it is the same informant, and I am sensitive because of the--

SENATOR HATCH: Well, whoever the informant was, whoever the informant was.

BY SENATOR HATCH:

Q Do you know when you first became aware of that information?

A I believe I became aware of that first in March or April of this year.

Q Okay. The 5/14/82 memo indicates that this information related to an allegation by the informant that Secretary

Donovan and Briguglio took pleasure trips together accompanied by Briguglio's girl friend, Joan N. Torino--

MR. OLSON: Which page and which paragraph?

SENATOR HATCH: The second paragraph.

BY SENATOR HATCH:

Q And the informant provided the names of five individuals who could corroborate the relationship between Donovan and Briguglio. The Newark adviser told OPR that he telephoned Mr. Schulte.

MR. OLSON: If that is the second paragraph, that is a different document--I am referring to the wrong document.

SENATOR HATCH: I am talking about--it says: "Raymond J. Donovan and Salvator Briguglio during the late 1960s and early '70s took various pleasure trips together."

MR. OLSON: If you are referring to the FBI letterhead memorandum--

SENATOR HATCH: I am referring to the memorandum, the second memorandum listed in number 48, Exhibit No. 48. In addition, I will refer you to the May 14th OPR on page three. But first let's go to the second memorandum in 48.

What is that OPR listed as? Forty-nine. Okay.

BY SENATOR HATCH:

Q It says: "Briguglio, along with his girl friend, Joan, met Donovan and certain female associates at locations that are unknown to source. Donovan was previously closely associated with a female having the first name of Jeannie, who resided in the vicinity of IBT Local 84 until several years ago, when she mysteriously disappeared."

Now, the Newark supervisor told OPR--now, that is in Exhibit No. 49 on page three at the top of the page, about in the middle of the paragraph. Are you with me?

MR. OLSON: Yes.

SENATOR HATCH: "The Newark supervisor stated that he telephoned the section chief"--I take it that's Schulte--right?

THE WITNESS: That is correct.

BY SENATOR HATCH:

Q Who was the Newark supervisor? Do you know?

A Frank Gallagher.

Q Okay.

--"on February 2, 1981, and advised him of the contents of the memorandum. The supervisor recalls advising the section chief that the agent had been furnished with five names but does not recall providing him the names received from the informant. The section chief recalls discussing the information concerning Briguglio's girl friend, Joan Torino, with the supervisor on the telephone and instructing him to interview her. He recalls discussing with the supervisor individuals who the informant said might know something about a Briguglio-Donovan relationship but has no recollection of any specific information being furnished to him concerning the names or descriptions of individuals who could provide that information."

So, on February 2nd, the Newark supervisor told OPR that he telephoned Mr. Schulte on February 2nd, 1981 and advised him of the contents of the informant interview memo. Mr. Schulte advised OPR--that's right here.

Mr. Schulte, then, if you read this memorandum, advised OPR that he recalled discussing the matter with the Newark supervisor and instructing him to interview Joan Torino.

Are you following me up to this point?

MR. OLSON: You lost me when you--where did you jump to at the very end?

SENATOR HATCH: I already read that up on top: "The section chief recalls discussing the information concerning Briguglio's girl friend, Joan Torino, with the supervisor and telephoned instructing him to interview her."

Are you with me up to that point?

In other words, we have established the fact that the pleasure trips, Joan Torino, the Newark supervisor on February 2nd telephoned Mr. Schulte--

MR. OLSON: We have established that that is what these documents state.

SENATOR HATCH: Right, right. That that's what these documents state. That's all I am trying to do.

And the Newark supervisor was instructed by Mr. Schulte to interview Joan Torino.

MR. OLSON: That is what the documents--

SENATOR HATCH: Okay. Now, the Newark supervisor told OPR he furnished FBI Headquarters the results of the Torino interview by teletype on February 3rd, 1981. That is in the second paragraph on page three.

A review of FBI Headquarters' files by OPR revealed the February 3rd, 1981 teletype reflecting the results of the Torino interview. But the teletype made no reference to the five names provided by the informant.

Right? At least that's what this document says.

MR. OLSON: There was some summarization. It was not a direct quote--

SENATOR HATCH: But that is basically--

MR. OLSON: --towards the end.

Well--

SENATOR HATCH: I could read the document.

MR. OLSON: I am not suggesting that you should read it because the document does speak for itself.

SENATOR HATCH: All I want to do is make sure that it is clear what we are talking about.

MR. OLSON: Well, it is not clear what we are talking about. The documents speak for themselves.

SENATOR HATCH: Let's read paragraph two.

"The supervisor states"--

MR. OLSON: Senator, we will stipulate that this is Exhibit 49--

SENATOR HATCH: Right.

MR. OLSON: --this is page three of the second part of that document, and it is in the record.

SENATOR HATCH: Well, let me read it for the record so I can ask questions from it so we both know what we are talking about.

"The supervisor states that he provided FBI Headquarters with the results of the Torino interview by teletype on February 3, 1981"-- I am reading directly from the document. --"and referenced his telephone calls to FBI Headquarters of February 2, 1981. A review of the FBI Headquarters Donovan background investigation file disclosed a Newark teletype dated February 3, 1981, which reports the informant's information regarding Briguglio and Torino and the results of her interview but does not mention the five individuals referred to by the informant. The supervisor said that he did not conduct a followup investigation or include those names in the teletype because they were just another example of the numerous name references that had been checked out and had failed to establish any relationship between Donovan and organized crime figures."

E.

"The section chief"--again Mr. Schulte--"said that he did not request the Newark office to conduct additional investigation about these individuals because of the vagueness of the information and the lack of any specific details. He believed this decision was in accord with instructions he said were previously received from the EAD for investigations" --and the EAD, of course, was Mullen; is that correct?

THE WITNESS: That is correct, Senator.

SENATOR HATCH: Okay. --"and the Assistant Director of CID"--that would be Monroe, right?

THE WITNESS: That is correct, Senator.

SENATOR HATCH: --"not to pursue vague, nonspecific allegations and to conclude the background investigation. He also said he saw no reason to report the informant's information concerning Torino to the Senate Committee or discuss it with his superiors because he believed the subsequent interview indicated that the information was unsubstantiated."

BY SENATOR HATCH:

Q Now, did Mr. Schulte consult with you concerning this matter?

MR. OLSON: Concerning the--

SENATOR HATCH: The matters that we have just been reading about.

THE WITNESS: I was aware of the Torino information.

BY SENATOR HATCH:

Q What was the nature of your discussions with Mr. Schulte? Was it only about the Torino information? Or was it about the five witnesses, alleged witnesses or anything else in here?

A I was not aware of the five names. It was basically a discussion of the Torino information.

Q Did you at the time agree with Mr. Schulte's decisions as enumerated in here?

MR. OLSON: What decisions are you referring to?

SENATOR HATCH: The ones that are enumerated in here: not to investigate beyond, just investigate Torino, et cetera.

MR. OLSON: You are referring to the last paragraph that you read?

SENATOR HATCH: Yes, just what we have been reading.

BY SENATOR HATCH:

Q Did you agree with him?

MR. OLSON: Was he consulted about--

BY SENATOR HATCH:

Q Were you consulted about them and, if so, did you agree with the decisions?

A With regard to the Torino information, I was aware of it, and it proved negative. So, there wasn't really a decision there. I did not know about the others.

Q I see. Were you aware of the instructions from Mr.

Monroe and Mr. Mullen cited by Mr. Schulte not to pursue vague, nonspecific allegations and to conclude the background investigation? Were you aware of that?

A Yes, I was.

Q Were those instructions oral or in writing?

A Those were oral.

Q Do you consider the names furnished by the informant to be vague and nonspecific?

MR. OLSON: The names?

SENATOR HATCH: The names that we have in the memorandum listed--the second memorandum in Exhibit No. 48.

MR. OLSON: Are you asking whether the names are vague?

BY SENATOR HATCH:

Q Did you consider those names vague or nonspecific?

MR. OLSON: I find the question unintelligible: Are the names vague?

SENATOR HATCH: Well, we have just gone through a whole series of questions asking him if he agreed--

MR. OLSON: I am not sure whether a name can be vague, Senator. That is my problem.

SENATOR HATCH: Let me rephrase the question.

BY SENATOR HATCH:

Q I asked if you were aware of the instructions from Mr. Monroe and Mr. Mullen cited by Mr. Schulte not to pursue vague, nonspecific allegations and to conclude the background investigation. Since there were five names listed in this second memorandum listed in Exhibit No. 48, all of whom were individuals closely associated with Salvator Briguglio, according to the informant, and persons who should be in a position to corroborate the close relationship which existed between Briguglio and Donovan, would you have considered any investigation of those five individuals to be unnecessary because of vagueness or nonspecific allegations made? Or did you consider those specific allegations that should have been followed up on and investigated?

MR. OLSON: Well, now we are asking him to speculate because I think he has testified that he did not have that information.

BY SENATOR HATCH:

Q Had you had that information, would you have investigated those five individuals?

MR. OLSON: Calls for speculation.

SENATOR HATCH: No, it isn't. He is an agent. I am asking you in the opinion of--

MR. OLSON: Why are you asking for an expert--

SENATOR HATCH: I am asking for his agent's opinion, if he had the information that is in this second memorandum, that these five individuals were closely associated with Salvatore Briguglio and should be in a position to corroborate the close relationship which existed between Briguglio and Donovan, would you have investigated that with these specific names?

MR. OLSON: Under the circumstances that existed at the time--

SENATOR HATCH: Under the circumstances that existed at that time.

MR. OLSON: As of February 2, 1981?

SENATOR HATCH: Sure.

MR. OLSON: I submit that it is calling for speculation.

SENATOR HATCH: I am calling for an opinion, whether he, if he was in charge of the investigation, would have investigated those--

MR. OLSON: I think we differ as to whether that is an opinion or speculation.

BY SENATOR HATCH:

Q Don't you make decisions every day as a supervisor whether to investigate or not investigate?

A Yes, I do.

Q Had you had those names, would you have investigated them?

MR. OLSON: I have the same observation.

BY SENATOR HATCH:

Q Answer the question anyway.

A If I had this information on February 2nd, 1981, the SPIN investigation had concluded, for all intents and purposes, with our testimony on January 27th, 1981, the authority for us to continue such an investigation ends with the confirmation of the individual whose background is being conducted--

Q Let's assume you had these names before January 27, 1981. Would you have investigated--

A I think I--

MR. OLSON: I don't know what dates you are referring to. It further calls for speculation.

SENATOR HATCH: Let's say January 20th, 1981.

MR. OLSON: And all the circumstances that existed on that--

SENATOR HATCH: Any date between January 20th, 1981, up to January 27th, 1981.

MR. OLSON: Well, since the facts do--

SENATOR HATCH: Under these facts as enumerated in this memorandum, would you have investigated them?

MR. OLSON: I object on the grounds of relevance and on the grounds that it calls for speculation--

SENATOR HATCH: Would you--

MR. OLSON: Excuse me. I have not finished, Senator.

SENATOR HATCH: Okay, go ahead.

MR. OLSON: That there is no evidence on this record that I know of that these names were known in this context as of the dates that you have indicated--

SENATOR HATCH: Okay, your--

MR. OLSON: --it simply calls for speculation.

SENATOR HATCH: Your objection is noted.

BY SENATOR HATCH:

Q As an expert FBI agent, I would like your opinion whether those should have been investigated if they had arisen during that time frame, before the hearing on January 27, 1981.

A If they had arisen in sufficient time before the hearing, we would have given every consideration to locating those individuals. I think the information is vague and difficult to corroborate; therefore, the reasonable probability of any successful investigation was limited.

Q Yes, but you would have tried, is the point.

MR. OLSON: We would have what, Senator?

BY SENATOR HATCH:

Q Tell me the authority that you cited which would say that, since you received--or at least the FBI had notice of these individuals as of February 1, 1981, four days after the hearings, before, however, he was confirmed, that the obligation of the FBI stopped with regard to further investigation of Mr. Donovan's alleged associations.

A I am not so sure that we are talking about the obligation of the FBI here, Senator. We are talking about the authority for a special inquiry investigation. That authority is to determine the suitability of the candidate for the position.

Q When was--go ahead.

A Now, should any information have come to the attention of the FBI that indicated any criminal wrongdoing on the part of Mr. Donovan, that would have triggered the Ethics in Government Act; and appropriate investigation would have been conducted and appropriate officials would have been notified.

SENATOR HATCH: Let us put into the record as Exhibit No. 50 the memorandum of understanding, the Federal Bureau of Investigation background investigations for the President-elect of the United States of America. This has a marking on it dated June 15th, 1982. It has a stamp on it, but the date of this was December 2, 1980, signed by Mr. Civiletti November 28th, it looks like, 1980; signed by Ronald Reagan, President-elect, Civiletti being Attorney General; and Edwin Meese, III, chief of President-elect's transition staff, signed it December 1, 1980.

(Exhibit No. 50 was marked for identification.)

SENATOR HATCH: Let me call your attention to paragraph three on page three, and then I will read it and

8450 JUN 15 1981 II

MEMORANDUM OF UNDERSTANDING

EXHIBIT NO. 50

FEDERAL BUREAU OF INVESTIGATION BACKGROUND INVESTIGATIONS FOR THE PRESIDENT-ELECT OF THE UNITED STATES OF AMERICA

The Federal Bureau of Investigation (FBI) will conduct file reviews or background investigations (hereinafter both referred to as investigations) at the request of the President-elect or his designated representative of applicants, employees or any persons engaged by contract or otherwise to perform services for the President-elect. These investigations shall only be conducted pursuant to the agreement between the Attorney General and the President-elect to ascertain facts and information relevant to the applicant's or the employee's suitability for employment and/or trustworthiness for clearance for access to information classified under the provisions of Executive Order 11652 and where necessary for clearance for access to compartmented information in accordance with the standards set forth in Director of Central Intelligence Directive 1/14.

Requests for investigations by the FBI shall be made in writing from the President-elect or his designated representative to the Director of the FBI enclosing a completed Standard Form 86 (Security Investigation Data for Sensitive Position) which provides the necessary background data and a set of the individual's fingerprints for a check of FBI Identification Records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974 and in keeping with the spirit of this Act, the request shall be accompanied by a statement signed by the subject of the investigation acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with the FBI Records Retention Plan.

The President-elect or his designated representative is to secure a written consent from the person under investigation authorizing the FBI to conduct a file review and investigation; granting it access to educational, credit and employment background records; and permitting its dissemination of all information, whether newly developed or already contained in existing files, to the President-elect or his designated representative, and to appropriate Federal agencies where necessary to obtain clearance to classified information. If a person furnishes medical information bearing on suitability or trustworthiness, the President-elect or his designated representative will secure a

MEMORANDUM OF UNDERSTANDING

PAGE 2

signed medical release from the person under investigation and furnish such release at the time the investigation is requested. If medical information bearing on the suitability or trustworthiness of the applicant is developed through investigation, the FBI will advise the President-elect or his designated representative. President-elect or his designated representative will advise whether further investigation is desired and will either furnish to the FBI a release to review necessary medical records and interview the physician or advise if it desires the FBI to contact the persons under investigation for the appropriate medical releases.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that to the extent permitted by law information identifying such persons will be kept confidential.

The FBI will furnish summary memoranda and supporting materials containing the results of its investigation to the President-elect or his designated representative and retain a record of the person to whom such information is furnished. The President-elect or his designated representative will insure that access to these summary memoranda and supporting materials is restricted to persons directly involved in making a determination as to the person's suitability for employment by the President-elect and/or trustworthiness for access to classified information. The President-elect or his designated representative shall maintain records of the identities of persons receiving access to the aforementioned materials and such records shall be furnished to the FBI upon request. No person having access to the aforementioned materials will reproduce or disseminate such materials.

The President-elect or his designated representative will insure that summary memoranda and supporting materials and any copies received will be retained until January 20, 1981, at which time they will become part of the Presidential papers. The summary memoranda and supporting materials and any copies received shall be returned to the FBI when a decision is made not to employ an individual or whenever the individual terminates employment or when required by law or presidential directive or executive order or upon the termination of the President-elect's administration.

Under no circumstances should the President-elect or the designated representative allow the person who is the subject of an investigation direct access to the summary memorandum and supporting material. If necessary to discuss the contents of the summary memorandum and supporting material with the applicant or employee the President-elect or his designated representative will insure that the confidentiality of the sources contained therein is protected. Any request by the individual for access to the memorandum will be referred to the FBI for processing in accordance with the Privacy Act of 1974.

Information obtained during a background investigation will be retained at FBI Headquarters and FBI field offices in accordance with the FBI Records Retention Plan. Prior to January 20, 1981, no subsequent dissemination shall be made by the FBI of the results of the background investigation conducted for the President-elect without the express approval of the President-elect or his designated representative, except as expressly required by Federal statute or a part of an investigation of a violation of law.

The FBI will inform the President-elect or his designated representative of any adverse information developed during the FBI file review or during the background investigation. The FBI will also provide the President-elect or his designated representative with any adverse information and supporting materials which subsequently come to the attention of the FBI that question the suitability or trustworthiness of any employee or any person engaged by contract or otherwise to perform services for the President-elect. Information obtained during background investigations conducted pursuant to this agreement will not be disseminated outside the FBI except when necessary to fulfill obligations imposed by law, FBI regulation or presidential directive or executive order.

When a tentative decision is made to employ an individual who requires an appropriate clearance for access to classified information the President-elect or his designated representative shall confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department which is authorized to grant the necessary clearance to classified information and the President-elect

MEMORANDUM OF UNDERSTANDING

PAGE 4

or his designated representative shall furnish a copy of the aforementioned summary memoranda and supporting materials to the Director of Central Intelligence (DCI) or the appropriate agency or department granting clearance to classified information. The DCI or the appropriate agency or department involved will insure that the summary memoranda and supporting materials furnished to them pursuant to this agreement will be returned to the President-elect within ninety (90) days of its receipt.

No person employed by the President-elect shall be given access to any classified information or material until appropriate procedures for granting clearance for access to classified information have been established and clearance granted. The President-elect will provide the FBI and the DCI with a list of persons cleared for access to classified information and the President-elect will advise the FBI and DCI when an individual granted a clearance terminates employment with the President-elect.

Ben R Civiletti
BENJAMIN R. CIVILETTI
Attorney General

dated: 12/2/80

Ronald Reagan
RONALD REAGAN
President-elect

dated: 11/28/80

Edwin Meese III
EDWIN MEESE
Chief of President-elect's
Transition Staff

dated: 1 Dec 80

then give it to you to read, because I only have one copy.

"The FBI will inform the President-elect or his designated representative of any adverse information developed during the FBI file review or during the background investigation. The FBI will also provide the President-elect or his designated representative with any adverse information and supporting materials which subsequently come to the attention of the FBI that question the suitability or trustworthiness of any employee or any person engaged by contract or otherwise to perform services for the President-elect. Information obtained during background investigations conducted pursuant to this agreement will not be disseminated outside the FBI except when necessary to fulfill obligations imposed by law, FBI regulation, or presidential directive or Executive Order."

Now, it is easy for me to see why you felt that you were working only for the White House in this matter. I have no problem with that other than I think that is a bad procedure, and that is something perhaps we are going to have to change, because the White House is the nominating body and we happen to be the confirming body. Both are coequal and both are important in this process. But, be that as it may, the FBI was acting pursuant to memoranda of understanding and Executive Orders. And I do not think anybody is going to be able to find fault with the FBI for living within that understanding, except we have some problems here. Here we have the FBI dealing directly with the Committee and giving us part of the information but not all of the information. And that is what has caused some of the furor over all of the Donovan matter.

Let me give this to you to read that third paragraph yourselves. I just wanted to read it for the record.

I sure want to get this finished today.

(Off the record)

SENATOR HATCH: What we were talking about is, even though this information was received subsequent to the hearing on the 27th and before the actual confirmation, it seems to me under this memorandum of understanding that, had you known about it, you should have shown the White House this information or told them about this information.

MR. OLSON: The record does reflect, however, that the witness has testified that he did not know about it at or about that time--

BY SENATOR HATCH:

Q Did you know about it at that time?

A I am not disputing the fact that that is a course of action. I did not know about this information at the time--

Q Had you known about it, you probably would have given it to the White House?

MR. OLSON: It calls for speculation.

E.

THE WITNESS: If I had known about it, I probably would have given it to the White House.

SENATOR HATCH: See, where we have problems is that we think that the information should have been furnished to the Committee also. Now, that is a question that is bigger than this discussion. I think it has got to be resolved between the two separated branches of government. But it is presently not resolved. That is one of the big reasons for going through, you know, these exercises post-special prosecutor's report.

BY SENATOR HATCH:

Q Do you know if there are any internal memoranda concerning these two memoranda in Exhibit No. 48?

MR. OLSON: Are you referring--

SENATOR HATCH: Referring to both memoranda in Exhibit 48, the one memorandum which is dated--well, they are both dated 2-2-81.

MR. OLSON: Are you excluding Exhibit 49, which--well, I guess--I am not even sure whether Exhibit--

SENATOR HATCH: I am limiting my question to Exhibit No. 48 and internal documents, backup documents with regard to these memoranda.

MR. OLSON: Are you excluding the attachment dated May 14, 1982?

SENATOR HATCH: Exclusive of any exhibit we have already seen, are there any internal memoranda? If there are, we would like to see them. That is another request we will make.

BY SENATOR HATCH:

Q In a letter dated June 14th, 1982, Director Webster forwarded to the Committee a copy of an interview by the Newark office on February 9, 1981, of Joseph G. Szapor, in which Szapor said that he had seen Mr. Donovan with Philip Moscato and his brother Joey Moscato at a restaurant in Jersey City on several occasions in 1976 or 1977. This was the first time the information was furnished to the Committee. That was June 14th, 1982, by Director Webster's forwarding.

When were you first aware of this information?

MR. OLSON: Is the June 14th communication an exhibit?

SENATOR HATCH: We will make it Exhibit No. 51.

(Exhibit No. 51 was marked for identification.)

SENATOR HATCH: This is an interview conducted on February 9th, 1981, of Joseph G. Szapor. We did not get it until sometime after June 14th, 1982.

MR. OLSON: Your question is when the witness first became aware of--

SENATOR HATCH: This information.

MR. OLSON: --the contents, I guess, of the

EXHIBIT NO. 51

#4

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

Senator Orrin G. Hatch
Chairman, Committee on Labor
and Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

In view of the continuing interest of your Committee in Secretary Raymond J. Donovan, I recently ordered that relevant files in FBI field offices in Albany, Philadelphia, New York, and Newark be reviewed again to determine if any information had been furnished to the Office of Special Prosecutor Leon Silverman that had not also been brought to the attention of the Committee. This review disclosed that four items of information had been provided directly to the Special Prosecutor's Office without also being forwarded to FBI Headquarters and, consequently, had not been made available to your Committee. The items, copies of which are enclosed, are:

1. A report of an interview on February 6, 1981, with Joseph G. Szapor, a protected Government witness.

2. An anonymous letter to the Newark FBI Office block-stamped January 20, 1981.

3. A portion of an interview with Anthony Provenzano conducted on January 22, 1981, at the Federal Correction Institute in Lompoc, California, which makes reference to Secretary Donovan.

4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

Copies of these documents have been furnished to Mr. Silverman and he has agreed with their release to your Committee.

Senator Orrin G. Hatch

An inquiry has been conducted by our Office of Professional Responsibility to review our internal handling of these materials. A summary of the results of that inquiry is provided in the attached letterhead memorandum.

The FBI is making every effort to ensure that you and your Committee are provided with all relevant information in our possession concerning Secretary Donovan. If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

William H. Webster
Director

Enclosure
1 - Honorable Edward M. Kennedy

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

June 14, 1982

RAYMOND J. DONOVAN

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4. Relevant portions of a memorandum from a Special Agent in the New York Division to the Assistant Director in Charge of the New York Division dated February 5, 1981, and entitled "Raymond J. Donovan, Designee for Secretary of Labor; Information Concerning."

An inquiry was conducted by the FBI's Office of Professional Responsibility to review the internal handling of these materials. A summary of the results of that inquiry is contained within this letterhead memorandum. Separate explanations are provided for each of the four documents.

The Szapor interview, the subject of the first document, was conducted in the Newark Division on February 6, 1981, three days after the Secretary's nomination was confirmed by the Senate. The Special Agent who conducted the interview cannot recall what

he did with the interview report after preparing it, but states that his normal procedure was to furnish a copy of such a report promptly to the Applicant Squad. The Supervisor of the Newark Applicant Squad does not recall seeing this document until December 1981. He notes that at the time the document would have been placed in the Donovan background investigation file, the file was physically located in the Closed Files Section.

The Newark Supervisor who received the second document, the anonymous letter, notes that similar allegations concerning cash payoffs for labor peace by Schiavone Construction Company were furnished to FBI Headquarters by teletype on January 15, 1981. He recalls that this anonymous letter came to his attention at a time when approximately 50 Special Agents of the Newark Division were working for him trying to resolve more specific allegations received during the background investigation from known individuals. He did not believe that the information in the letter was sufficiently specific regarding the alleged payoffs to permit a penetrating interview of the individuals named in the letter. He states that he did not furnish this letter to FBI Headquarters because its allegations were not specific enough to permit them to be resolved, and he had been instructed to investigate specific allegations which could be resolved.

As is apparent from the third document, the interview of Anthony Provenzano was not conducted as part of the background investigation of Secretary Donovan. He misunderstood the purpose of the interview and initiated discussion about the Secretary to advise the Special Agents that he never met Donovan and that Donovan never had a contract with his union. The Newark Supervisor who eventually received a copy of the interview report advises that he did not furnish FBI Headquarters with the information pertaining to Donovan because he did not receive it until almost a week after the Secretary's confirmation and he understood that he was not required to furnish information received at that time which tended to refute an allegation made earlier.

The New York Agent who authored the fourth document states that he prepared the memorandum on February 5, 1981, but earlier had discussed its contents on the telephone with the New York Supervisor. The Supervisor recalls that the New York Agent furnished him with informant information during a telephone conversation and that he incorporated all this information into a teletype to FBI Headquarters dated January 23, 1981. He notes that he did not receive the memorandum until after Secretary Donovan had been confirmed and only then was advised of the information in the memorandum.

concerning the alleged connection between Ronald Schiavone and Jerry Catena, and the names of two individuals who may have had knowledge of activities at Schiavone Construction Company. He states that he did not furnish FBI Headquarters with the memorandum because it contained no specific allegations of wrongdoing or misconduct against Secretary Donovan.

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 2/9/01

Joseph G. Szapor, a protected government witness, telephonically furnished the following information:

Szapor advised that during the period of 1960 through April, 1979, while he operated the business known as Joe's Truck Stop, 340 Tonnelle Avenue, Jersey City, New Jersey, he learned that it was "common knowledge" in the Northern New Jersey area that Schiavone Construction Company (SCC) made "payoffs" in order to obtain preferred contracts through the rigging of construction bids. Szapor advised that he had no personal dealings with SCC in a business sense, nor did he have any direct involvement with Ray Donovan or SCC in any scheme whereby "payoffs" were made for "labor peace."

Szapor advised that he knows of Ray Donovan from having observed Donovan in the presence of Philip "Brother" Moscato, along with Moscato's brother, Joey Moscato, at the Lil' Red Buggy, an Italian restaurant located just off Kennedy Boulevard in Jersey City, New Jersey. Szapor recalled having observed Donovan in Moscato's presence on several occasions during the period of approximately 1976 or 1977. The Moscato brothers did business as Moscato Brothers Construction Company (MBCC) and to the best of Szapor's recollection maintained an office in Arlington, New Jersey.

Investigation on 2/6/01 at Newark, New Jersey File # [redacted]

by [redacted] /caw Date dictated 2/9/01

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted]

Federal Bureau of Investigation
P,O, Box 1158
Newark, New Jersey 07101

344 II.

Dear Sir:

Iread about your confiscating the records of Schiavone Construction regarding Donovan (candidate for Dept. of Labor post).

While going throughthose files, you may be interested to look into the payoffs to the late Bob Wallace (recently murdered) & Jim Boyle (Business agents for Ironworkers Local 11); Jack Templeton (Ironwork Local 483 in Paterson); Gene Arny & Frank Wade (Business agents for Ironworkers Local 480 in Elizabeth and advisor/associates of mob bos John Riggi); and John Riggi (Business agent for laborers Local 394 in Elizabeth - currently the head of the 'Sam the Plumber' DeCalvacan family, whose Local is loaded with immigrants without visas paying o to work out of Local 394 to Riggi.

I know for a fact that Schiavone has paid off for 'job peace' to each and every one of the above mentioned, for work done on the Turnpike & Sewage Plants & Meadowlands jobsites in the Paterson, Newark, Elizabeth, Linden & Amboy territories (McCloud is the B.A. for the Amboy Ironworkers Local 373. Look at the figures involved at the Sewage plant in his territory).

Schiavone & Briscoe-Araceo Conduit Construction companies made very wealthy people out of the above named. Templeton & Wallace for the Meadowlands, Turnpike & Sewage Plant 'job peace'; Arny, Wade & Rigg for 'job Peace' at the Sewage Plants, Turnpike & waterfront construc sites paid by Schiavone Const. & Briscoe- Araco-Conduit Const. & Cornell of Camden; Riggi gets his weekly from laborers who pay to keep their jobs.

It's about time someone opened up that can of worms. Ask Donovan ab his affiliations with the above named, he knows them and his payoff them are there.

116-3133-74
SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
JAN [illegible]
[redacted]

[redacted]

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/29/81

ANTHONY PROVENZANO was contacted at the Federal Correction Institute, Lompoc, California. At the outset of the interview, PROVENZANO was advised of the official identities of the interviewing Agents. Before any further discussion by the Agents, ANTHONY PROVENZANO stated, "I know what you are here for, I talked to my lawyer this morning, I never met the man". SA CALLAHAN inquired of PROVENZANO what he meant. PROVENZANO advised, "I'm talking about that guy DONOVAN who has been selected by REAGAN for a Cabinet post". SA CALLAHAN advised PROVENZANO that the purpose of the proposed interview was his (PROVENZANO's) knowledge of the facts surrounding [redacted] PROVENZANO stated, "Oh really, well I'll talk to you guys about anything, but I just wanted you to know that I never met DONOVAN and he never had a contract with my union".

[redacted]

[redacted]

[redacted]

Investigation on 1/22/81 at Lompoc, California File # Detroit-[illegible]

SERIALIZED ___ FILED ___

by [redacted] Date dictated 1/27/81

FEB 4 1981

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Memorandum

To : ADIC, NEW YORK (161B-7053)
[redacted]

Date 2/5/81

From : [redacted]

Subject : RAYMOND J. DONOVAN, DESIGNEE
FOR SECRETARY OF LABOR;
INFORMATION CONCERNING

Rephonecalls between the writer and Supv. [redacted] 1/22,23,27/81.

Attached is a column from N.Y. Daily News of 2/5/81 by I. D. ROBBINS that in part dealt with captioned matter.

As a result of re phone calls, the writer made contact with three cooperating witnesses developed as sources knowledgeable about construction contractors in the NY-NJ area [redacted] Each of these three sources has in the past furnished reliable and verified information.

All three sources were familiar with the Schiavone Construction Co. of Secaucus, NJ and of the fact this company had done both road work and sewer [redacted] work on Long Island (L.I.).

Two of the sources said they had never met DONOVAN and knew RON SCHIAVONE as the primary principal and decision maker for the company that bears his name.

All three said they assumed the Schiavone Company, like most if not all others, had entered into agreements with various locals of IBT and/or Operating Engineers to have master mechanics on jobs who do not do too much work. All three said they knew of no specific payoff to or from anyone that would tie in either DONOVAN, SCHIAVONE or the firm.

3-New York
[redacted]

[redacted]
b)(3)
[redacted]

161B-70

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FBI - NY
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One source stated he believed for the Shiavone Company to come to L.I. and get work they would have had the approval of either Local 282 IBT or Local 138 Operating Engineers. He believes Schiavone came to L.I. with the backing of JOHN CODY of Local 282 and over the objections of WILLIAM DEKONING, JR. the former president of Local 138. This same source understands that the Schiavone Firm gets its main backing and influence from RON SCHIAVONE's connections to NJ union figure PETE WEBER and hoodlums such as JERRY CATENA.

Neither this last named source nor either of the other two could link DONOVAN to any such union or hoodlum connection.

One source did describe the following persons who may have knowledge about activities at the Schiavone firm and may not be willing to remain silent if they know of criminal conduct by either RON SCHIAVONE or DONOVAN:

> JOHN COLAO (PH) - a former construction superintendent for Schiavone who was fired in about 1973. He may have worked thereafter for two firms located at Darien, Conn. [redacted]

> EDDIE COLE (PH) - a former employee of RON SCHIAVONE and possibly his former brother-in-law. He was from the same union in NJ as PETE WEBER and he was a master mechanic on jobs where the Schiavone firm was the general contractor. COLE would have been in a position to know about payoffs and who at the Schiavone, if anyone, was involved.

[redacted]

[redacted]

DAILY NEWS

2-5-81

DAILY NEWS FEB 5, 1981

Construction graft

ON THE NATIONAL front, Raymond J. Donovan, a New Jersey contractor who is President Reagan's designee for secretary of labor, is under a cloud. His company is alleged to have bought protection from labor racketeers.

Paying either for protection, or to be let alone, or for preferential treatment is a fact of life in large-scale contracting.

I.D. Robbins

The construction industry is full of men and companies that agree to crazy terms with unions, then try to escape the consequences. Typical of the outrages is a contractors' association arrangement with certain operating-engineer unions. For every four engineers who work—bulldozer, crane, cherry-picker operators, etc.—a contractor must pay two who do no work. Each of them makes as much as $2,000 a week. One is laughingly called a "working foreman." The other is known as a "master mechanic." The working foreman can usually be induced to go out for coffee, while the master mechanic knows how to use the telephone. When union officials change, new guys get the juicy assignments.

"Elevator constructors" have been known to get $700 a week to sit on chairs in elevator lobbies while Teamsters move in the tenants' furniture. Steamfitters have jurisdiction over refrigeration; in New York apartment construction, they must be hired to put the refrigerator plug in the electric outlet.

Shakedowns are bad, but it takes guts to oppose them. Considering the risks, if Donovan was short in the guts department, we sympathize with him. If he tried to buy special treatment not available to other contractors, he might be a success in business, but we don't need him in the Labor Department.

161B-7053

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FEB [illegible] 1981
FBI — NY

attachment, which is dated 2-9-81.

SENATOR HATCH: That is right.

THE WITNESS: I believe that was in March or April of this year.

BY SENATOR HATCH:

Q Are you aware of any communication between the Newark office and FBI Headquarters at the time of the interview about its contents?

A At the time of the interview?

Q Yes.

A 2-9-81?

Q Right.

A No, I am not.

Q Should the Newark office have furnished this information to FBI Headquarters at the time, even though Secretary Donovan had been confirmed three days prior to the interview?

A In my opinion, they should.

Q Why should they have done that, in your opinion?

A While the special inquiry investigation at that point in time would have been completed, consideration should have been given to possibly that triggering the Ethics in Government Act. At least the Department of Justice should have been made aware of it.

Q Okay. If the information--

(Off the record)

BY SENATOR HATCH:

Q If the information had been forwarded, what action would have been taken? Would there have been any?

MR. OLSON: Call for speculation.

SENATOR HATCH: I think it does call for speculation.

BY SENATOR HATCH:

Q The same letter from the director forwarded an anonymous letter to the Newark office date stamped January 20th, 1981 in which allegations were made about the Schiavone Company making payoffs for labor peace in Paterson, New Jersey, along with other allegations. According to the OPR inquiry concerning this, the Newark supervisor said that similar allegations concerning cash payoffs for labor peace by the Schiavone Company had been furnished to FBI Headquarters by teletype on January 15th, 1981.

MR. OLSON: Are you reading from certain page--

SENATOR HATCH: I am just summarizing page--I don't think they are listed by pages, are they?

Let me just show you which one I am summarizing.

MR. OLSON: You are summarizing the anonymous letter?

SENATOR HATCH: Yes.

BY SENATOR HATCH:

Q Now, he did not furnish the information to FBI Headquarters at the time because the allegations were not specific enough, and he had been instructed to investigate specific allegations that could be resolved.

MR. OLSON: I do think now you are referring to some other piece of paper.

SENATOR HATCH: Referring to the text of the OPR.

MR. OLSON: And I believe that that probably is the bottom of page two of the--

SENATOR HATCH: Right. The second paragraph. It is the bottom of the second paragraph.

MR. OLSON: Yes, we find it.

BY SENATOR HATCH:

Q Did you or anybody at the FBI Headquarters discuss this document with the Newark office at that time?

MR. OLSON: The anonymous letter?

BY SENATOR HATCH:

Q Yes.

A I certainly did not.

Q Do you know what instructions the Newark supervisor is referring to in his explanation?

A I believe so now.

Q Do you know who gave those instructions? What were they?

A I think those instructions were relayed to him by Joe Schulte, and that was the information on limiting our investigation to specific allegations.

E.

Q Did Schulte spell out exactly what those instructions were?

A I don't know.

Q Do you know when and how they were given?

A I would presume that it would be telephonically.

MR. OLSON: Now, I think the record should reflect he is presuming which instructions, and now he is presuming how those presumed instructions would have been communicated.

BY SENATOR HATCH:

Q What do you really understand the instructions to be from whatever source? You understand them to be instructions concerning specific investigation. Is that it?

A I understand them to be to limit our investigation to specific allegations.

Q Okay.

Now, if you can tell us, what constitutes a specific allegation? I know that is a tough question because there are all kinds of allegations.

A It is a tough question, as you say, Senator, because there are all kinds of allegations. But I would tend to think that something that could be proven or shown or verified or documented--

Q Or disproven.

A --or disproven.

Q Do you know when those instructions were given?

A I believe that was in a conversation or a meeting on January 26th, 1981.

Q Why were the instructions given on that day, that particular day, January 6th?

A Because we were having a discussion in preparation for our testimony before your Committee on the 27th.

Q Okay. Who participated in that discussion?

A Mullen, Monroe, myself, Schulte, Domzalski, and possibly Russ Bruemmer.

Q Can you tell us what was said at that time?

MR. OLSON: I believe there has been previous testimony this morning.

BY SENATOR HATCH:

Q Do you think you have covered that before?

A Yes, Senator.

Q Okay. What allegations were in the January 15th, 1981, teletype mentioned by the Newark supervisor?

MR. OLSON: May I have that question again?

SENATOR HATCH: That is in the second paragraph of page two--

MR. OLSON: Of the letterhead memorandum?

SENATOR HATCH: Of the letterhead memorandum. It is dated June 14th, 1982.

THE WITNESS: I can't comment, Senator, without having the file. I don't know.

SENATOR HATCH: Okay. Would you make that available also? We would like to see that as well.

MR. OLSON: We will respond when we get the written request.

SENATOR HATCH: You want a request of that? Okay.

BY SENATOR HATCH:

Q The same letter of June 14th, 1982, forwarded a report of an agent of the New York office dated February 5th, 1981, in which he referenced telephone conversations between himself and his supervisor on January 22, 23, 27, of 1981. The agent indicated that, as a result of those calls, he contacted three sources who had furnished reliable and verified information in the past, among other things. One source said he understood that the Schiavone Company received its main backing and influence from Ronald Schiavone's connections with New Jersey union figure Pete Weber and hoodlums such as Jerry Catena. One source furnished the names of two persons who might furnish additional information.

I refer you to the memorandum on Catena dated February 5, 1981. It has a date stamp of February-something, 1981. We cannot quite read it.

MR. OLSON: We have that. It is an attachment to Exhibit 51.

SENATOR HATCH: Okay. The OPR inquiry indicated that the New York agent said that he prepared the report on

February 5th, 1981, but had discussed its contents with the supervisor earlier. The supervisor said he had incorporated the information into a teletype to FBI Headquarters dated January 23rd, 1981, but did not know of the allegation about Schiavone's connection with Jerry Catena and the names of the other prospective sources until he saw the February 5th, 1981, report.

BY SENATOR HATCH:

Q Were you aware of the January 23rd, 1981, teletype from the New York office to FBI Headquarters?

MR. OLSON: Before he answers that question, I think that you characterized or summarized a paragraph from the letterhead memorandum. I am not disputing the accuracy, but I was not able to follow it.

SENATOR HATCH: I think that is fair. That is fair to say. I was not reading directly from the memorandum but characterizing; I think accurately but nevertheless characterizing.

MR. OLSON: I was not able to follow it closely enough to argue.

SENATOR HATCH: Okay.

BY SENATOR HATCH:

Q Were you aware of the January 23rd, 1981, teletype from the New York office to FBI Headquarters?

A I can't specifically recall, but I reviewed all the

New York teletypes at that time.

Q Were you aware of the allegation about Jerry Catena?

A Not to my recollection.

Q Was the supervisor following instructions not to furnish information unless it contained specific allegations or allegations of wrongdoing or misconduct against Mr. Donovan, if you know?

A It has come to my attention recently that it appears that this information just wasn't furnished. I don't think he was following instructions one way or the other.

Q Do you consider the allegation about Catena to be specific or nonspecific?

MR. OLSON: Well--

BY SENATOR HATCH:

Q Now that you see it.

(Off the record)

MR. OLSON: The only allegation contained, I think, in this document to which you might be referring is the sentence which says the same source understands that the Schiavone firm gets its main backing and influence from Ron Schiavone's connections to New Jersey union figure Pete Weber and hoodlums such as Jerry Catena.

Is that the allegation that you are asking him to characterize?

SENATOR HATCH: Well, do you think this constitutes specific or unspecific allegations, this information?

MR. OLSON: The sentence that I referred to, is that what you are asking him about?

SENATOR HATCH: Yes. That is what we are asking him about.

THE WITNESS: While it's got a specific name, I don't think it's a specific allegation.

BY SENATOR HATCH:

Q Was the information in the January 23rd, 1981, teletype included in the January 23rd, 1982, report that was furnished to the Committee, if you know?

A I don't know. I would presume so.

Q You testified about the Masselli--

MR. OLSON: Excuse me.

(Short recess taken)

SENATOR HATCH: I am pleased to tell you we are getting down to the end, for this set of questions.

BY SENATOR HATCH:

Q You testified about the Masselli tapes yesterday-- Now, that is at page 431 of the transcript--that in response to a request of this Committee you determined that Defellipis was the subject of investigation. Now, that is correct, right?

I think he would know that.

MR. OLSON: I would like to have the opportunity to--

SENATOR HATCH: Okay.

(Off the record)

MR. OLSON: I don't see Mr. Defellipis' name on that page.

SENATOR HATCH: Line 21.

MR. OLSON: Page 430?

SENATOR HATCH: 431.

(Off the record)

SENATOR HATCH: If you go to page 429, it is apparent that we start talking about Defellipis. If you go to page 430, in the middle, I ask the question: "Do you know whether he was under investigation at the time?" "At the time, no." "Okay, did you determine whether he was?" "I think subsequently, within, say, the past year, I have received that information."

BY SENATOR HATCH:

Q So, it is correct that he was the subject of an investigation. That is what you determined. Right?

A I am not sure, Senator, that he was the subject. He was involved in an investigation.

Q Okay. Let me direct your attention to the Committee's letter to Director Webster dated July 13th, 1981.

This will be marked Exhibit 52.

(Exhibit No. 52 was marked for identification.)

United States Senate
COMMITTEE ON LABOR AND
HUMAN RESOURCES
WASHINGTON, D.C. 20510

52

July 13, 1981

EXHIBIT NO. 52

The Honorable William H. Webster
Director
U.S. Department of Justice
Federal Bureau of Investigation
Washington, D.C. 20535

Dear Judge Webster:

We have received the letter dated July 6, 1981, signed by Mr. Colwell as Acting Director in response to our letter to you dated June 25, 1981.

We appreciate your assistance in this matter. We are still concerned, however, about certain aspects of the situation. It would be very helpful if you could furnish us further clarification about the following items:

1. As your letter indicates, Mr. Mullen did advise us in a closed meeting prior to the confirmation hearing that there were a number of court-authorized wiretaps in New Jersey, and that there were no references to Secretary Donovan or the Schiavone Construction Company as being overheard on any of these wiretaps. Mr. Mullen also advised us and subsequently testified that neither Secretary Donovan or the Schiavone Construction Company were referred to in these wiretaps. Why did Mr. Mullen not advise us at the closed meeting, or in his testimony concerning wiretaps, of the fact that there was a reference to Secretary Donovan and Mr. Schiavone on the court-authorized wiretap of Mr. Masselli?

2. Does the Bureau have any information, other than that contained in the January 23, 1981, memorandum cited in your letter, concerning criminal activity or organized crime connections on the part of William Masselli?

[illegible] William H. Webster
[illegible]981
[illegible]o

3. What was the date of the conversation between William Masselli and his son, Nat, quoted in your letter?

4. Is the identity of the person referred to as "he" in the first line of the conversation known to the Bureau? If so, please identify him.

5. Is the nature of the "affair" mentioned in line three of the conversation known to the Bureau? If so, please identify it.

6. Is the identity of the person referred to as "he" in the first line of the second part of William Masselli's conversation known to the Bureau? If so, please identify him.

7. Can Bobby DeFillipis be further identified? Does he have any krown organized crime connections?

8. Were there overhearings of, or references to, other Schiavone officials in the court-authorized wiretaps of Mr. Masselli? If so, please furnish the text of those conversations.

Thank you for your cooperation.

Sincerely,

Orrin G. Hatch
Orrin G. Hatch
Chairman

Edward M Kennedy
Edward M. Kennedy
Ranking Minority Member

BY SENATOR HATCH:

Q Do you recognize this letter?

MR. OLSON: The letter to--

SENATOR HATCH: We have given you both copies. Let us have one of those. Thank you. Give us the one that is marked exhibit. Thank you.

BY SENATOR HATCH:

Q Do you recognize that?

MR. OLSON: It is a letter addressed to Director Webster.

SENATOR HATCH: To Judge Webster.

THE WITNESS: I recognize the letter, Senator.

BY SENATOR HATCH:

Q Do you know who showed it to you? And was there any conversation at the time?

A I don't recall how it came to me, and I don't recall any conversation.

Q Or if anybody was present at the time?

A That I received the letter?

Q Yes.

A No.

Q Let me--

A No, I don't recall.

Q Let me direct your attention to Director Webster's letter to this Committee which is dated August 10th, 1981.

We will mark that as Exhibit No. 53.

(Exhibit No. 53 was marked for identification.)

BY SENATOR HATCH:

Q Do you recognize that?

A I recognize the letter, Senator.

Q Under what circumstances did you see that letter, if you know?

A I believe I created it.

(Off the record)

BY SENATOR HATCH:

Q Oh, you wrote that. I see.

Let's stop there.

SENATOR HATCH: I believe that that is all I am going to want from you, Mr. Adamski, but I have to reserve the right to ask you to come back and give further sworn testimony if we need it. I am hopeful that we will be able to be satisfied with the extensive time that we have spent thus far.

I personally want to express my appreciation to you and Mr. Mullen, Mr. Olson, and, of course, others who have cooperated so magnificently with this Committee.

I would like to ask one other question on behalf of Senator Denton.

BY SENATOR HATCH:

Q Did you on your own behalf or acting under the

EXHIBIT NO. 53

#53

Adamache
8/20/85

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

August 10, 1981

Honorable Edward M. Kennedy
United States Senate
Washington, D. C.

Dear Senator Kennedy:

The letter from you and Chairman Hatch dated July 13, 1981, expresses your additional concerns relating to our background investigation of Secretary Donovan.

Mr. Mullen did not advise you that Secretary Donovan's and Mr. Schiavone's names were mentioned during one conversation overheard during a court authorized recorded conversation between William Masselli and his son, Nat, because, as we previously stated, it was not considered either significant or surprising. It was known that Mr. Masselli's firm, Jo-Pel Contracting and Trucking, was doing business with the Schiavone Construction Company. We reported this relationship to the committee in our memorandum dated January 23, 1981. The conversation between Mr. Masselli and his son did not provide any new information concerning the relationship between Secretary Donovan and Mr. Masselli. This conversation also did not provide any indication of any illegal activity or any organized crime connection involving Secretary Donovan.

Questions two through eight of your letter do not refer to our background investigation of Secretary Donovan, but rather involve an ongoing investigation. As such, and after discussion with the United States Attorney's Office in the Southern District of New York, they cannot be answered at this time because to do so might jeopardize current litigation or violate existing protective court orders. However, all the information currently available in our files concerning the relationship between Secretary Donovan and William Masrelli has already been provided to the committee in briefings, written communications and testimony.

Honorable Edward M. Kennedy

I am providing an identical response to Chairman Hatch by separate letter.

Sincerely yours,

William H. Webster
Director

17 555 877.

direction of others within the FBI, the Department of Justice, or the White House, ever consciously attempt to conceal or withhold from this Committee information which would have been relevant in the meaning of Executive Order 10450 and bureau guidelines and which would have pertained to the suitability of Mr. Donovan to be Secretary of Labor?

A Absolutely not.

SENATOR HATCH: Well, I believe that personally.

Let me just say this again. I express my gratitude and appreciation to you. I know this has been an ordeal. I know it has been very valuable time that you could have been spending down at the FBI. Nevertheless, it is one of the things that I as Committee Chairman am forced to do and with the sanction of other members of the Committee and, of course, with the right of any other member of the Committee to have come in and ask any questions they desire, either personally or through staff. I have asked every staff question which has been raised, as far as I know.

Mr. Olson, do you have any questions or do you have anything you would care to put on the record?

MR. OLSON: No. Thank you for your courtesy.

SENATE HATCH: What we are going to do is take this recess time and get the matter compiled. It does appear to me that we will need to chat with Mr. Fielding. We will just go from there. As far as I am concerned, that is not a matter that should be given to the press unless either Ted Kennedy or I say so. If I am interviewed, I will have to tell them that we will probably have to chat with Mr. Fielding.

MR. OLSON: I take it that now is not the appropriate time to discuss or debate that aspect of it.

SENATOR HATCH: No, it is not.

I just want again to express my gratitude and appreciation to the FBI for being so cooperative. I am sorry that we have had these difficulties. The director himself personally told me that, with regard to the five allegations that showed up in 1982, almost a year and a half after the process began, that he felt that some of those matters had fallen through the cracks and that there had been some mistakes on the FBI's part. Personally, I do not find anything so abhorrent about that. I think we all make mistakes, every one of us; and we can all do a better job in retrospect. I think that applies even to the almighty United States Senators sometimes. In fact, it applies almost every time to United States Senators. With that, I'd better not say any more before I get in any deeper.

Thank you for coming. We appreciate the cooperation. We may ask for some additional information. We have asked for some. I do want that letter on the one teletype that you thought you could provide by the end of today. I am talking to Mr. Mintz of the FBI. If we can receive the other information, or if it is similar that only I can see it, then I would be happy to sit down and do it. But I would prefer, if it does not have to be limited to me, to have it disseminated among the Committee or for the Committee transcript.

I would also like you to go through all of these exhibits. If you feel that they have not been made public--and I believe all of them have--but, if you feel they have not been made public or any of them might in the slightest degree compromise witnesses or sources for law enforcement in this country, we would like to sit and discuss that with you.

MR. OLSON: Mr. Chairman, I think that the Committee and the staff would assure itself that the documents are in the public domain before they are made public. We will also undertake to review the exhibits.

SENATOR HATCH: As of right now, I do not intend to publish the exhibits unless we are pretty assured that we both agree that no great harm will come from publishing them as far as disclosure of identities of informants. On the other hand, I do not want--you know, I think almost all of the exhibits do not fit in that category. There may be one or two that you have questions about. So, I do not want to have you folks stopping us from publishing them unless you can show that it is absolutely crucial.

MR. OLSON: We will go through the exhibits. If we have any reasons why we think that any of them should not be made public, we will communicate those reasons to you.

SENATOR HATCH: We would appreciate that a great deal.

If we can continue to work together, I think we can get this thing brought to an effective conclusion.

We will be filing a report. I suspect there will be some criticism. If I have my way, there will be some criticism of the Committee, too. The whole process has suffered somewhat, it seems to me. Perhaps the ultimate purpose of going through this is, of course, to try and help the process to be better in the future so that we do not have the problems that occurred in this matter. We can benefit from a study of the past and its problems.

In any event, I do not have any great desire to lay blame on anybody. I just want to get this done and resolved and, hopefully, make some suggestion that might help this process to work better in the future and certainly be of more help to the FBI, which I think has found itself caught between two coequal branches of government, both of which desire and need important information in the confirmation process. So, we will go from there.

With that, we will recess these discussions with the understanding that we could call back either Mr. Mullen or Mr. Adamski. It may be essential for us to take statements from others as well, but as of right now I do not intend to.

MR. OLSON: I understand the Committee is reserving its rights in that regard. Similarly, we would be reserving our rights to object to the process.

SENATOR HATCH: We understand.

MR. OLSON: Thank you.

SENATOR HATCH: Thank you.

(Whereupon, at 11:51 a.m., the sworn record was recessed.)

CERTIFICATE OF REPORTER

I, Anne E. Hayes, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Anne E. Hayes

Anne E. Hayes, Reporter

CERTIFICATE OF REPORTER

I, Cathy Jardim, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Cathy Jardim

Cathy Jardim, Reporter

CERTIFICATE OF REPORTER

I, Tony Jackubosky, reporter, do hereby certify that the testimony of the witness which appears in the foregoing sworn record was taken by me stenographically and thereafter reduced to typewriting by me or under my direction; that said sworn record is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this sworn record was taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, or financially or otherwise interested in the outcome of the action.

Tony Jackubosky

Tony Jackubosky, Reporter